

## **GENERAL COUNSEL'S REPORT**

### **SEPTEMBER 25, 2013**

**A. Stones River Hospital, Woodbury (Cannon County), TN — CN0012-122AE**

Request for removal of condition that the beds be limited to the provision of geropsychiatric services and allow them to be used for adults.

This project was approved by unanimous voice vote (10-0) on March 28, 2001 for the conversion of eight (8) acute hospital beds to geriatric psychiatric beds for a total of 22 geriatric psych beds with an estimated project cost of \$33,000. This project was implemented on August 13, 2001.



# waller

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AUG 30 '13 4:49 PM

August 30, 2013

**VIA HAND DELIVERY**

James B. Christoffersen, Esq.  
Health Services and Development Agency  
Frost Building, Third Floor  
161 Rosa L. Parks Blvd.  
Nashville, TN

Re: Stones River Hospital

Dear Jim:

Our client, Capella Healthcare, wishes to request that the Health Services and Development Agency lift the condition, if any, that the beds be limited to the provision of geropsychiatric services and allow them to be used for adults. This request is to be considered for the September agenda for HSDA meeting.

According to the 1993 Joint Annual Report filed with the State, the psychiatric unit opened in June, 1993. Stones River Hospital was owned by HealthTrust and the psychiatric unit was managed by Cornerstone Health Management. At that time 14 beds were added. An additional 8 beds were granted through the conversion of 8 medical/surgical beds (CN0012-122)

The additional information needed to support this request will be provided in time for the mail out. Please do not hesitate to call me if you have any questions.

Sincerely,



Kim Harvey Looney

KHL:lag



September 16, 2013

Melanie Hill  
Executive Director  
Health Services and Development Agency  
161 Rosa L. Parks Blvd.  
Nashville, TN 37243

Re: Stones River Hospital

Dear Melanie:

Stones River is requesting that the condition limiting its psychiatric beds to geropsychiatric beds be lifted. Stones River plans to use 8 of its beds currently designated for geropsychiatric services for adult psychiatric services, but would like the flexibility to use the beds for geriatric psychiatric services should patient need so dictate. Stones River does not plan to mix adult and geropsychiatric patients. These are not new beds, but a request for the condition to be lifted for existing beds. All beds are currently licensed as adult psychiatric beds, which will not change as a result of this request.

Stones River Hospital in Woodbury, Tennessee (Cannon County) is a 60 bed acute care hospital. Stones River is an active participant in the Medicare and Medicaid (TennCare) programs with almost 75% of its net patient revenue coming from these two government programs in 2012, according to its Joint Annual Report. Stones River currently operates 22 geropsychiatric beds in 2 separate units. One has 14 beds and the other has 8 beds. Both units have locking doors and can be operated separately. For licensure purposes, all beds are licensed as adult psychiatric beds. Stones River would like to be able to use 8 of the beds currently designated for geropsychiatric purposes for adult patients. This does not involve the addition of any beds, but simply lifting a condition on the beds that are already in place. Stones River would like the flexibility for the 8 beds to allow them to be used for any adult patients - whether they be the elderly geropsychiatric patients or the adult patient population, that is generally aged 18-64. Stones River does not plan to mix geropsychiatric patients with the adult patient population.

Because elderly patients in need of psychiatric services frequently have medical conditions that must be addressed first, the geropsychiatric patients are medically screened by a physician prior to being admitted. Stones River has coverage 24/7 from family practice physicians in order to assist with the medical conditions of this patient population.

The occupancy rate for the geropsychiatric unit at Stones River was 65.1% for fiscal year 2012. This is a slight decrease from the occupancy for 2010, which was 72.5%. This is due in part to the departure of the medical director for the geropsychiatric unit at Stones River. In August, 2012, Dr. Ravi Singh, who had been operating as the medical director of the geropsychiatric unit at Stones River, left to go to TrustPoint, in neighboring Rutherford County. It took more than a few months for Stones River to find a permanent replacement for Dr. Singh.

Although Stones River had decided it needed adult psychiatric beds in addition to its geropsychiatric unit, until a replacement was found for Dr. Singh, it was unable to move forward with this plan.

None of the counties in the service area have any psychiatric beds. Stones River Hospital currently receives referrals from all of these counties, both for acute care medical services, as well as geropsychiatric services. These counties include Bedford, Coffee, DeKalb and Warren. The closest psychiatric beds are in Rutherford County, for SeniorHealth of Rutherford, LLC, doing business as TrustPoint Hospital. TrustPoint is approximately 22 miles or 31 minutes from Stones River.

In October 2012, TrustPoint was approved for 16 additional psychiatric beds - 8 adult plus 8 geropsychiatric for a total of 20 adult and 20 geropsychiatric beds. See CN1207-031A. At the time the original 60 bed hospital was built, TrustPoint shelled in sufficient space to add these beds. At the hearing, TrustPoint argued that there was a need for psychiatric beds in Rutherford and Bedford Counties, its primary service area, of 69 beds, according to the state's Guidelines for Growth. The Department of Mental Health report supported the need for additional psychiatric beds for adults and stated that the Guidelines for Growth often underestimates the numbers of psychiatric beds that are really needed. With the approval of this most recent application, TrustPoint has 40 adult (and geropsychiatric) beds, which means there is a need for an additional 29 beds in this service area. TrustPoint also indicated that even though it had been open only a short time, its psychiatric beds were full and additional beds were needed in order for it to continue to meet the needs of its service area residents. With the exception of Bedford County, there is no overlap in the service area of TrustPoint and Stones River.

Stones River Hospital opposed the application for the additional geropsychiatric beds at TrustPoint. During the hearing for that application, it was suggested by Mr. Wright that although Stones River gave testimony that it would be hurt by the approval of additional beds for TrustPoint, that perhaps Stones River should consider other avenues in their business model to make them a more viable organization, such as getting involved with adult psychiatric beds, "because it appears that there seems to be quite a great need for that in the area in general." See Page 104 of the portion of the transcript from the HSDA hearing, October 24, 2012, for SeniorHealth of Rutherford, LLC doing business as TrustPoint Hospital.

Stones River is taking that advice, and is therefore requesting permission to lift the condition on its beds to use 8 of the geropsychiatric beds for adult patients. Stones River is a community hospital and the only hospital located in Cannon County. It has been struggling financially and approving this project will help it better achieve financial viability. In addition, a patient population that is in need of services will be able to receive them closer to home. With health care reform, it is increasingly important that hospitals are nimble and able to adjust as needs and reimbursement for health care services change.

The specific criteria for psychiatric inpatient services are addressed below. However, these criteria are generally applicable only in the situation where additional beds are requested

and this request is not for new beds, but for lifting a condition for existing beds. Nevertheless, Stones River has addressed these criteria whenever possible.

### PSYCHIATRIC INPATIENT SERVICES

#### A. Need

1. The population-based estimate of the total need for psychiatric inpatient services is 30 beds per 100,000 general population (using population estimates prepared by the Department of Health and applying the data in Joint Annual Reports).

**Response:** This request is not for new beds, but only for permission to treat the adult patient population in existing geropsychiatric beds.

Using a primary service area of Bedford, Cannon, Coffee, DeKalb and Warren Counties, shows a need for 40 beds for the population aged 20 and older in 2013 and a need for 42 beds in 2017. Deducting the existing 22 beds in the service area, indicates a need for 20 additional psychiatric beds for the adult patient population aged 20 and older in 2017.

#### Service Area Population 2013

County	0-19	20-64	65+
Bedford	14,331	28,739	5,813
Cannon	3,656	8,537	2,216
Coffee	14,300	31,858	9,071
DeKalb	4,895	11,656	2,978
Warren	11,087	25,055	6,506
<b>TOTAL</b>	<b>48,269</b>	<b>105,845</b>	<b>26,584</b>

Source: 2010-2020 Tennessee Population Projections, Tennessee Department of Health

#### Service Area Projected Population 2017

County	0-19	20-64	65+
Bedford	15,318	30,297	6,412
Cannon	3,747	8,791	2,386
Coffee	14,577	32,707	9,931
DeKalb	5,077	11,832	3,252
Warren	11,432	25,557	7,160
<b>TOTAL</b>	<b>50,151</b>	<b>109,184</b>	<b>29,141</b>

Source: 2010-2020 Tennessee Population Projections, Tennessee Department of Health

2. For adult programs, the age group of 18 years and older should be used in calculating the estimated total number of beds needed.

**Response:** The breakdowns for population available from the Department of Health do not easily allow for a breakdown at age 18, therefore any population statistics that are included with this request show the adult population starting at age 20, which would underestimate the need.

3. For child inpatient under age 13, and if adolescent program the age group of 13-17 should be used.

**Response:** Not applicable.

4. These estimates for total need should be adjusted by the existent staffed beds operating in the area as counted by the Department of Health in the Joint Annual Report.

**Response:** Not applicable. It is important to note that this request is not for new beds, but only for permission to treat the adult patient population in existing geropsychiatric beds. There are no other psychiatric beds in the primary service area of Bedford, Cannon, Coffee, DeKalb and Warren Counties.

Using a primary service area of Bedford, Cannon, Coffee, DeKalb and Warren Counties, shows a need for 40 beds for the population aged 20 and older in 2013 and a need for 42 beds in 2017. The only beds in the service area are the 22 beds at Stones River, leaving a need of 20 additional psychiatric beds in 2017. The geographic service area should be reasonable and based on an optimal balance between population density and service proximity or the Community Service Agency.

**Response:** The geographic service area is reasonable because it is the area from which Stones River receives its patients.

5. The relationship of the socio-demographics of the service area, and the projected population to receive services, should be considered. The proposal's sensitivity to and responsiveness to the special needs of the service area should be considered including accessibility to consumers, particularly women, racial and ethnic minorities, low income groups, and those needing services involuntarily.



**Response:** The applicant treats all patient population groups, including women, racial and ethnic minorities, low income groups, and those needing services involuntarily, without regard to the patient's ability to pay.

***B. Relationship to Existing Applicable Plans***

1. The proposal's relationship to policy as formulated in state, city, county, and/or regional plans and other documents should be a significant consideration.

**Response:** In the report the Department of Mental Health and Substance Abuse Services issued for the Certificate of Need application for SeniorHealth of Rutherford, LLC, CN1207-031A, the report states that the Guidelines for Growth need formula often underestimates the need for inpatient psychiatric beds, due to the impact of other factors. Additional factors cited by the Department of Mental Health and Substance Abuse Services include the utilization of existing beds and "the "TDMHSAS' strong support for serving people, if and when possible, in the community in which they live to increase the potential involvement of family, the individual's support system, and access to other needed services, including aftercare services." Individuals who require psychiatric services often have difficulty accessing such services because of transportation issues and insufficient economic means to travel far distances for acute psychiatric care. See report dated October 12, 2012.

The approval of the request to lift the condition will allow more adults to receive necessary psychiatric services closer to home, allowing greater involvement of family and their support system.

2. The proposal's relationship to underserved geographic areas and underserved population groups as identified in state, city, county and/or regional plans and other documents should be a significant consideration.

**Response:** The area serviced by Stones River is a rural population. Stones River is the only hospital in Cannon County, but it is also the only hospital in its primary service area of Bedford, Cannon, Coffee, DeKalb and Warren Counties that offers geropsychiatric services or any inpatient psychiatric services. Having access to care close to home is critical for the psychiatric patient population. Sometimes patients refuse treatment and go without care if they feel the distance to receive care is too great. For most of these counties, patients would have to go through Cannon County to reach Rutherford County, the next closest area where psychiatric services are offered. It is very important that this fragile patient population be able to receive the services of its support group, i.e. family members and friends, and if they are too far away from this support group, they may forego necessary treatment. Transportation and the financial cost of travel can be major issues. Having another alternative closer to home for the residents of these counties will help provide necessary health care services to this fragile patient population.

2. The impact of the proposal on similar services supported by state appropriations should be assessed and considered.

**Response:** Not applicable. There are no other similar services offered in the primary service area.

3. The proposal's relationship to whether or not the facility takes voluntary and/or involuntary admissions, and whether the facility serves acute and/or long-term patients, should be assessed and considered.

**Response:** Stones River accepts involuntary admissions.

4. The degree of projected financial participation in the Medicare and TennCare programs should be considered.

**Response:** Almost 75% of the net patient revenue for Stones River is from the Medicare and Medicaid (TennCare) programs.

**C. Relationship to Existing Similar Services in the Area**

1. The area's trends in occupancy and utilization of similar services should be considered.

**Response:** There are no existing similar services in the primary service area of Stones River of Bedford, Cannon, Coffee, DeKalb and Warren Counties. The closest services are provided in Rutherford County at TrustPoint. A discussion of those services is included above.

2. Accessibility to specific special need groups should be an important factor.

**Response:** The geropsychiatric services offered by Stones River are accessible to all appropriate patient populations, including those with any special needs, and if Stones River is allowed to offer adult psychiatric services, they will be available for that patient population as well.

**D. Feasibility**

The ability of the applicant to meet Tennessee Department of Mental Health licensure requirements (related to personnel and staffing for psychiatric inpatient facilities) should be considered.

**Response:** The applicant does not anticipate any issues in meeting any state licensure requirements, as it is already a licensed provider of psychiatric services. There will be no change in the licensure of these beds as a result of the approval of the lifting of the condition limiting the beds to geropsychiatric services; they are already licensed as adult psychiatric beds.

In considering the 3 main criteria of Need, Economic Feasibility, and Contribution to the Orderly Development of Health Care, please see the information below:

**Need:** Stones River is not asking for new beds but only to lift a condition on the beds that limits their use to geriatric patients. This request is being made so that Stones River can provide services to the adult psychiatric patient population as well. Based on the need formula discussed above, there is a need for additional psychiatric beds in this area. In addition, the Department of Mental Health concurs that there is a need for more services to meet the health care needs of this patient population in this area.

**Economic Feasibility:** The project is economically feasible. Stones River anticipates spending approximately \$35,000 to allow 8 of the geriatric psychiatric beds to be used for adult patients. This amount is necessary to implement very minor renovations including converting some of the ceilings to solid ceilings and the addition of platform beds.

**Contribution to the Orderly Development of Health Care:** Lifting the condition on these beds will have no negative impact on existing providers in the primary service area. None of the existing hospitals in the primary service area of Bedford, Cannon, Coffee, DeKalb and Warren County offer any psychiatric services. The ability for Stones River to offer adult psychiatric services will increase accessibility to a necessary health care service closer to home for a fragile patient population.

Stones River has also included the following as attachments to this letter:

Attachment 1: Project Costs Chart, Historical Data Chart, and Projected Data Chart

Stones River respectfully requests approval for the condition limiting its psychiatric beds to the treatment of geriatric patients to be lifted. As stated above, it is very important in order for Stones River to remain a financially viable institution that it be allowed this flexibility. This request is consistent with the advice of Mr. Wright at the hearing for the TrustPoint Hospital application, where Mr. Wright indicated that "Stones River should consider other avenues in their business model to make them a more viable organization, such as getting involved with adult psychiatric beds." While there is a need for additional psychiatric beds in the service area, it is important to note that these are not new beds and that no new beds will be added to the service area as a result of this request.

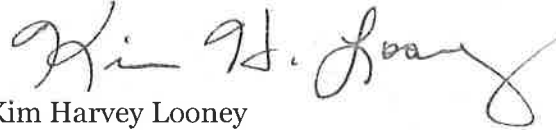
Representatives of Stones River will be present at the September hearing to address any questions the agency members may have.

waller

September 16, 2013  
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Please call me at 850-8722 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim H. Looney". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Kim Harvey Looney

KHL:lag

Enclosures

## PROJECT COSTS CHART

**A. Construction and equipment acquired by purchase:**

- |    |   |        |
|----|---|--------|
| 1. | Architectural and Engineering Fees  |        |
| 2. | Legal, Administrative (Excluding CON Filing Fee), Consultant Fees   |        |
| 3. | Acquisition of Site   |        |
| 4. | Preparation of Site   |        |
| 5. | Construction Costs  | 35,000 |
| 6. | Contingency Fund  |        |
| 7. | Fixed Equipment (Not included in Construction Contract)   |        |
| 8. | Moveable Equipment (List all equipment over \$50,000)   |        |
| 9. | Other (Specify) <span style="border: 1px solid black; display: inline-block; width: 250px; height: 15px;"></span> |        |

**B. Acquisition by gift, donation, or lease:**

- |    |   |  |
|----|---|--|
| 1. | Facility (inclusive of building and land)   |  |
| 2. | Building only   |  |
| 3. | Land only   |  |
| 4. | Equipment (Specify) <span style="border: 1px solid black; display: inline-block; width: 200px; height: 15px;"></span> |  |
| 5. | Other (Specify) <span style="border: 1px solid black; display: inline-block; width: 250px; height: 15px;"></span>     |  |

**C. Financing Costs and Fees:**

- |    |   |  |
|----|---|--|
| 1. | Interim Financing   |  |
| 2. | Underwriting Costs  |  |
| 3. | Reserve for One Year's Debt Service   |  |
| 4. | Other (Specify) <span style="border: 1px solid black; display: inline-block; width: 250px; height: 15px;"></span> |  |

**D. Estimated Project Cost  
(A+B+C)**

**E. CON Filing Fee**

**F. Total Estimated Project Cost  
(D+E)**

**TOTAL**

35,000

## HISTORICAL DATA CHART

Give information for the last *three (3)* years for which complete data are available for the facility or agency. The fiscal year begins in  (Month).

	Year 2010	Year 2011	Year 2012
A. Utilization Data (Specify unit of measure)	434	424	391
B. Revenue from Services to Patients			
1. Inpatient Services	\$ 8132248	\$ 7887685	\$ 7496126
2. Outpatient Services	0	0	0
3. Emergency Services	0	0	0
4. Other Operating Revenue (Specify) _____	0	0	0
<b>Gross Operating Revenue</b>	<b>\$ 8132248</b>	<b>\$ 7887685</b>	<b>\$ 7496126</b>
C. Deductions from Gross Operating Revenue			
1. Contractual Adjustments	\$ 3334222	\$ 3155074	\$ 3194099
2. Provision for Charity Care	0	0	0
3. Provisions for Bad Debt	0	0	0
<b>Total Deductions</b>	<b>\$ 3334222</b>	<b>\$ 3155074</b>	<b>\$ 3194099</b>
<b>NET OPERATING REVENUE</b>	<b>\$ 4798026</b>	<b>\$ 4732611</b>	<b>\$ 4302027</b>
D. Operating Expenses			
1. Salaries and Wages	\$ 1314166	\$ 1263000	\$ 1371701
2. Physician's Salaries and Wages	102000	95150	110021
3. Supplies	57102	50778	40584
4. Taxes	0	0	0
5. Depreciation	0	0	0
6. Rent	783	2870	1161
7. Interest, other than Capital	0	0	0
8. Other Expenses (Specify) _____	45131	46000	49306
<b>Total Operating Expenses</b>	<b>\$ 1519182</b>	<b>\$ 1457798</b>	<b>\$ 1572773</b>
E. Other Revenue (Expenses) – Net (Specify)	\$ 0	\$ 0	\$ 0
<b>NET OPERATING INCOME (LOSS)</b>	<b>\$ 3278844</b>	<b>\$ 3274813</b>	<b>\$ 2729254</b>
F. Capital Expenditures			
1. Retirement of Principal	\$ 0	\$ 0	\$ 0
2. Interest	0	0	0
<b>Total Capital Expenditures</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>
<b>NET OPERATING INCOME (LOSS) LESS CAPITAL EXPENDITURES</b>	<b>\$ 3278844</b>	<b>\$ 3274813</b>	<b>\$ 2729254</b>

### PROJECTED DATA CHART

Give information for the two (2) years following the completion of this proposal. The fiscal year begins in January (Month).

	Year <u>2014</u>	Year <u>2015</u>
A. Utilization Data (Specify unit of measure)	<u>511</u>	<u>511</u>
B. Revenue from Services to Patients		
1. Inpatient Services	\$ <u>7775479</u>	\$ <u>7775479</u>
2. Outpatient Services	<u>0</u>	<u>0</u>
3. Emergency Services	<u>0</u>	<u>0</u>
4. Other Operating Revenue (Specify) <u></u>	<u>0</u>	<u>0</u>
<b>Gross Operating Revenue</b>	\$ <u>7775479</u>	\$ <u>7775479</u>
C. Deductions from Gross Operating Revenue		
1. Contractual Adjustments	\$ <u>3806875</u>	\$ <u>3806875</u>
2. Provision for Charity Care	<u>0</u>	<u>0</u>
3. Provisions for Bad Debt	<u>0</u>	<u>0</u>
<b>Total Deductions</b>	\$ <u>3806875</u>	\$ <u>3806875</u>
<b>NET OPERATING REVENUE</b>	\$ <u>3968604</u>	\$ <u>3968604</u>
D. Operating Expenses		
1. Salaries and Wages	\$ <u>1484225</u>	\$ <u>1484225</u>
2. Physician's Salaries and Wages	<u>194693</u>	<u>194693</u>
3. Supplies	<u>47041</u>	<u>47041</u>
4. Taxes	<u>0</u>	<u>0</u>
5. Depreciation	<u>0</u>	<u>0</u>
6. Rent	<u>0</u>	<u>0</u>
7. Interest, other than Capital	<u>0</u>	<u>0</u>
8. Other Expenses (Specify) <u>Cont Srv, R&amp;M, Licenses</u>	<u>320940</u>	<u>320940</u>
<b>Total Operating Expenses</b>	\$ <u>2046899</u>	\$ <u>2046899</u>
E. Other Revenue (Expenses) -- Net (Specify)	\$ <u>0</u>	\$ <u>0</u>
<b>NET OPERATING INCOME (LOSS)</b>	\$ <u>1921705</u>	\$ <u>1921705</u>
F. Capital Expenditures		
1. Retirement of Principal	\$ <u>0</u>	\$ <u>0</u>
2. Interest	<u>0</u>	<u>0</u>
<b>Total Capital Expenditures</b>	\$ <u>0</u>	\$ <u>0</u>
<b>NET OPERATING INCOME (LOSS)</b>		
<b>LESS CAPITAL EXPENDITURES</b>	\$ <u>1921705</u>	\$ <u>1921705</u>

**Memphis Boys Town - (Bartlett, Shelby County) - Project No. CN0012-118**

The establishment of a 62 bed residential treatment facility for emotionally troubled children to be located at 7410 Memphis-Arlington Road in Bartlett, TN. Project Cost \$9,660,036.00.

Drs. Jeffrey Wright and Fred Tomlinson, addressed the Commission and Sandra Burke, Department of Children's Services, spoke on behalf of the project.

Dr. Langsdon moved for approval of the project based on: 1) Need – Need is clear; 2) Economic Feasibility – Finances are in order; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Koella seconded the motion. The motion CARRIED [10-0-0]. **APPROVED**

AYE: Koella Mann, Hamilton, Rukeyser, Jones, Langsdon, Weaver, Warner, Dawson, Eads

NAY: None

**Private Clinic East - (Roane, Harriman County) - Project No. CN0012-119**

The establishment of a non-residential methadone treatment facility to be located at 2215 South Roane Street in Harriman (Roane County), TN. Project Cost \$311,900.00.

J. Paul Connell addressed the Commission, and Robin Robinette spoke on behalf of the project.

Speaking in opposition of the project were: Representative Ferguson, Senator Lincoln Davis, Ken Yager, Kent Calfee, Jean Meredith, Hugh Russell, and Chief Jack Stockton.

Mr. Connell rebutted.

Mr. Koella moved for denial of the project based on: 1) Need – The Community need has not been demonstrated appropriately; 2) Economic Feasibility – Cost is not an issue; and 3) The project does not contribute to the orderly development of adequate and effective health care. Mr. Dawson seconded the motion. The motion CARRIED [8-2-0]. **DENIED**

AYE: Koella Mann, Hamilton, Jones, Langsdon, Warner, Dawson, Eads

NAY: Rukeyser, Weaver

**Harpeth Ridge Home Health and Hospice, Inc. - (Williamson, Fairview County) - Project No. CN0012-121**

The establishment of a home care organization for home health and hospice services for the following counties: Cheatham, Davidson, Dickson, Hickman and Williamson. The parent agency will be located at 7104 Cox Pike, Fairview (Williamson County), TN. Project Cost \$258,327.00.

Graham Baker, Esq. representing the applicant, addressed the Commission and Joyce Ollis, RN, spoke on behalf of the project. Daniel Ollis was present in support of the project.

Speaking in opposition of the project were: Gregory Lammert of Willowbrook Health & Home Services and Tammie Byers of Elk Valley Home Health.

Ms. Warner moved for approval of the project based on: 1) Need – The need is evident; 2) Economic Feasibility – Financials are in order; and 3) The project does contribute to the orderly development of adequate and effective health care. Ms. Weaver seconded the motion. The motion CARRIED [6-3-1]. **APPROVED**

AYE: Koella Hamilton, Rukeyser, Langsdon, Weaver, Warner

NAY: Jones, Dawson, Eads

ABSTAINED: Mann

**Stones River Hospital - (Cannon, Woodbury County) - Project No. CN0012-122**

The conversion of eight (8) acute hospital beds to geriatric psychiatric beds for a total of 22 geriatric psyche beds. Project Cost \$33,000.00.



John Cane, Medical Director, addressed the Commission, on behalf of the project.

Ms. Jones moved for approval of the project based on: 1) Need – The need is demonstrated to served to two separate populations including those with dementia and gero-psych patients; 2) Economic Feasibility – Financing through the cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care by supplementing existing health care services though the continuum of care. Ms. Hamilton seconded the motion. The motion CARRIED [10-0-0]. **APPROVED**

AYE: Koella Mann, Hamilton, Rukeyser, Jones, Langsdon, Weaver, Warner, Dawson, Eads  
NAY: None

**Surgery Center of Morgan County, LLC - (Morgan, Wartburg County) - Project No. CN0012-123**

The establishment of a freestanding ASTC and ODC for general multi-specialty outpatient surgery procedures in approximately 8,700 SF with 1 operating room, MRI, CT and other related ancillary services and equipment space. Project Cost \$1,594,595.00.

Jerry W. Taylor, Esq. representing the applicant, addressed the Commission.

Dr. Langsdon moved for approval of the project based on: 1) Need – The need is clearly demonstrated for the services to be provided for the community locally by this existing facility; 2) Economic Feasibility – Finances are in order; and 3) The project does contribute to the orderly development of adequate and effective health care by serving the rural community. Mr. Mann seconded the motion. The motion CARRIED [10-0-0]. **APPROVED**

AYE: Koella Mann, Hamilton, Rukeyser, Jones, Langsdon, Weaver, Warner, Dawson, Eads  
NAY: None

**Covenant Staffing Services, Inc. - (Knox, Knoxville County) - Project No. CN0012-124**

Relocation of parent office from Oak Ridge to Knoxville. The existing service area will remain the same for: Anderson, Knox, Roane, Morgan, Scott, Loudon and Campbell Counties. Project Cost \$191,160.00.

Janice Mays, Director of Nursing Staffing, addressed the Commission. spoke on behalf of the project.

Ms. Jones moved for approval of the project based on: 1) Need – The consolidation of offices will give an economy of scale; 2) Economic Feasibility – Cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care. Dr. Langsdon seconded the motion. The motion CARRIED [10-0-0]. **APPROVED**

AYE: Koella Mann, Hamilton, Rukeyser, Jones, Langsdon, Weaver, Warner, Dawson, Eads  
NAY: None

**Nashville Vision Correction - (Davidson, Nashville County) - Project No. CN0012-125**

The establishment of an ASTC limited to vision correction surgical procedures in 967 square feet of space with one operating room with ancillary and administrative space adjacent to the medical office of Dr. Pilkinton at the Medical Office Building. Project Cost \$686,853.00.

Graham Baker, Esq. representing the applicant, addressed the Commission and Dr. Dale Pilkinton spoke on behalf of the project.

Dr. Langsdon moved for approval of the project based on: 1) Need – Procedures are currently being performed; 2) Economic Feasibility – Finances are in place; and 3) The project does contribute to the orderly development of adequate and effective health care. **CONDITION:** Limited to vision procedures. Ms. Weaver seconded the motion. The motion CARRIED [10-0-0]. **APPROVED**

AYE: Koella Mann, Hamilton, Rukeyser, Jones, Langsdon, Weaver, Warner, Dawson, Eads  
NAY: None

STATE OF TENNESSEE  
HEALTH FACILITIES COMMISSION

Certificate of Need CN0012-122A is hereby granted under the provisions of  
T.C.A. §68-11-101, *et seq.*, and the rules and regulations issued thereunder by this Commission

to Cannon County Hospital, LLC  
324 Doolittle Road  
Woodbury, TN 37190

for Stones River Hospital

This Certificate is issued for the conversion of eight (8) acute hospital beds to geriatric  
psychiatric beds for a total of 22 geriatric psych beds in approximately 9,598 square  
feet of space. There will be no increase in the licensed bed capacity of the hospital.

on the premises located at 324 Doolittle Road  
Woodbury (Cannon County), TN 37190

for an estimated project cost of \$33,000.00


The Expiration Date for this Certificate of Need is

May 1, 2004

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After  
the expiration date, this Certificate of Need is null and void.

Date Approved March 28, 2001

Date Issued April 25, 2001

  
Chairman  
  
Secretary

## GENERAL COUNSEL'S REPORT

### SEPTEMBER 25, 2013

#### **B. The Health Center of Nashville, Nashville (Davidson County), TN — CN1107-024AM**

Request for an eighteen (18) month extension of the expiration date from November 1, 2014 to May 1, 2016 and the following project modifications pursuant to the approval of CN1306-022 which will relocate 60 of the 150 beds authorized by CN1107-024A:

- Reduction of 60 beds from the 150 approved beds to 90 beds (all to be private rooms not 38 private, 41 companion suites and 15 semi-private);
- Decrease in project cost by \$2,381,950 from \$23,894,100 to \$21,512,150; and
- Other changes related to the footprint of the facility including: (a) reduction in overall square footage by 8,592 SF from 86,000 SF to 77,408 SF; (b) increase in therapy gym space to support the post-acute rehabilitation services by 2,500 SF from 2,300 SF to 4,800 SF; and (c) the addition of 3,400 SF of shelled space for potential future growth.

TCA § 68-11-1628 permitted the relocation of 150 of the 300 beds from McKendree Village in Hermitage (Davidson County).

CN1002-007A was unanimously approved on May 26, 2010, for the relocation and construction of a 150-bed nursing home at 2816 old Hickory Blvd in Nashville with those 150 beds from McKendree Village.

CN1107-024AM was unanimously approved on September 28, 2011 for the establishment of a 150-bed nursing home by relocating existing beds approved by CN1002-007A to the intersection of Highway 100 and Pasquo Road in Nashville (Davidson County).

TCA § 68-11-1631, enacted in 2013, would permit the relocation of 60 of the 150 beds authorized by CN1107-024AM. CN1306-022 is pending to relocate 60 of the 150 beds authorized by CN1107-024A, and an additional 30 beds, to a facility to be constructed on Bell Road (Davidson County), with an estimated project cost of \$23,894,100.



# BUTLER | SNOW

AUG 30 13 PM 2:54

August 30, 2013

## VIA HAND DELIVERY

Jim Christoffersen, Esq.  
General Counsel  
Tennessee Health Services and Development Agency  
161 Rosa L. Parks Boulevard, 3<sup>rd</sup> Floor  
Nashville, TN 37203

RE: The Health Center of Nashville, CN1107-024A

Dear Mr. Christoffersen:

The purpose of this letter is to request modification of the certificate of need ("CON") for the project referenced above.

### Background

On September 28, 2011, the Agency approved CN1107-024 for the establishment of a 150 bed nursing home to be constructed in Nashville on an unaddressed site at the intersection of Highway 100 and Pasquo Road. The 150 nursing home beds addressed in the CON had their origin in a facility that qualified under T.C.A. § 68-11-1628, which authorized certain existing nursing home facilities to relocate a portion of their beds. In other words, the 150 nursing home beds in CN1107-024A are not new nursing home beds, but are a relocation of beds that previously existed in the market.

In 2012, the Tennessee General Assembly enacted legislation now codified at T.C.A. § 68-16-1631. This statute authorizes, among other things, the partial relocation of a portion of the beds in a facility that is authorized under an unimplemented CON that was issued on the basis of § 68-11-1628. In other words, § 68-16-1631 authorizes the issuance of a CON to relocate part of the 150 beds that are covered by CN1107-024A.

A CON application has been filed pursuant to § 68-16-1631 (CN1306-022) to relocate 60 of the 150 beds authorized under CN1107-024A to a facility to be constructed on Bell Road; this application also requests an additional 30 beds. The application was deemed complete in July and it is scheduled to be heard by the Agency at its meeting on September 25, 2013. If the Agency approves CN1306-022, the size and scope of CN1107-024A will change materially, thus this request for modification.

*The Pinnacle at Symphony Place  
150 3rd Avenue South, Suite 1600  
Nashville, TN 37201*

DAN H. ELROD  
615.651.6702  
dan.elrod@butlersnow.com

T 615.651.6700  
F 615.651.6701  
www.butlersnow.com

17491902v1

Requested Modification

If the Agency approves CN1306-022, then we respectfully request that CN1107-024A be modified to reduce the size of the project to 90 beds rather than 150 beds and to reduce the estimated project cost from \$23,894,100 to \$21,512,150. The key features of the requested modification are as follows:

- The size of the facility will be reduced from 86,000 sq. ft. to 77,408 sq. ft.
- All of the 90 beds will be in private rooms; the current 150-bed project is based on 38 private rooms, 41 companion suites and 15 semi-private rooms.
- The therapy gym in the modified facility will increase in size to 4,800 sq. ft., compared to 2,300 sq. ft. in the current design. The increased size of the therapy gym is needed to support the focus of the facility on post-acute rehabilitation services.
- The modified facility will include 3,400 sq. ft. of shelled spaced for potential future growth.

In support of this request, we are enclosing attachments as follows: (1) new project cost chart for the 90 bed facility and architect's letter confirming the construction cost estimate; (2) a square footage chart for the 90 bed facility; and (3) projected data charts for the first two years following completion.

We also request that the expiration date for the CON be extended by eighteen (18) months from the current expiration date of November 1, 2014, to May 1, 2016. Substantial progress toward completion has been accomplished through purchase of the site (which was originally only under an option) and by obtaining zoning changes, commitments from utilities and an agreement with Metropolitan Nashville for off-site traffic improvements. Total investment toward completion of the project is approximately \$2,600,000, which includes property acquisition, architectural, engineer and legal fees.

Construction of the project has been delayed because of the desire to relocate 60 of the beds to another site. Facility plans cannot be submitted to the Department of Health until the relocation of 60 beds has been approved by the Agency and the scope of CN1107-024A has been modified accordingly. The requested extension will provide ample time to complete construction of the project.

In connection with the request for an extension, we are enclosing a filing fee of \$33,750.00, which is 75% of the original filing fee of \$45,000.

Jim Christoffersen, Esq.

August 30, 2013

Page 3

We would appreciate this request being scheduled for consideration by the Agency at its meeting on September 25, 2013. Please let us know if you have any questions or need additional information.

Very truly yours,

BUTLER, SNOW, O'MARA, STEVENS &  
CANNADA, PLLC

A handwritten signature in black ink, appearing to read "D. Elrod", is positioned above the printed name.

Dan H. Elrod

clw

Attachments

cc: Bruce Duncan

# Attachment 1



## PROJECT COSTS CHART

## A. Construction and equipment acquired by purchase:

1. Architectural and Engineering Fees	808,600
2. Legal, Administrative, Consultant Fees	92,800
3. Acquisition of Site (Building, including estimated closing costs)	1,040,000
4. Preparation of Site	2,434,300
5. Construction Costs	13,647,000
6. Contingency Fund	678,500
7. Fixed Equipment (Not included in Construction Contract)	876,500
8. Moveable Equipment (List all equipment over \$50,000)	950,400
9. Other (Specify) Landscaping, pre-opening, impact fees	402,000

## B. Acquisition by gift, donation or lease:

1. Facility (Inclusive of building and land)	
2. Building Only	
3. Land Only	
4. Equipment (Specify)	
5. Other (Specify)	

## C. Financing costs and Fees:

1. Interim Financing	548,300
2. Underwriting Costs	
3. Reserve for One Year's Debt Service	
4. Other (Specify)	

D. Total Estimated Project Cost  
(A + B + C)

21,478,400

## E. CON Filing Fee (Extension)

33,750.00

F. Total Estimated Project Cost  
(D + E)

\$ 21,512,150

## NHC Place at the Trace

### Project Costs Charts Assumptions

#### Architectural/Engineering

Architect	\$ 644,800
Civil and Landscaping	51,700
Landscape Architect	6,900
Materials testing	55,000
Test & balance study	50,200
Total	<u>\$ 808,600</u>

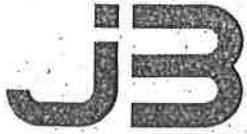
#### Fixed Equipment

Kitchen, Laundry, Asst. Bathing, Signage & Miscellaneous	<u>\$ 876,500</u>
--	-------------------

#### Other Costs

Landscaping	\$ 243,000
Impact Fees	78,000
Start up costs (pre-opening)	81,000
Total	<u>\$ 402,000</u>

Johnson + Bailey Architects P.C.



August 28, 2013

Mr. Bruce Duncan  
National HealthCare Corporation  
100 East Vine Street  
Murfreesboro, TN 37130

Re: The Place at the Trace

Dear Bruce:

Based upon a new construction total building area of 77,408 sq. ft., it is my opinion, based upon recently completed similar projects, that the total construction costs for the referenced project should be \$13,647,000 or approximately \$176.50 per sq. ft. exclusive of site development, equipment, and other soft costs.

The plans have been designed in compliance with the applicable building and life safety codes and to the requirements specified in the latest adopted edition of the Guidelines for the Design and Construction of Health Care Facilities.

Please advise if you require any additional information relative to construction costs for this project.

Sincerely,

JOHNSON + BAILEY ARCHITECTS.P.C.

A handwritten signature in black ink, appearing to read 'James H. Bailey III', written over a horizontal line.

James H. Bailey III AIA  
President

# Attachment 2

**SQUARE FOOTAGE AND COST PER SQUARE FOOTAGE CHART**

A. Unit / Department	Existing Location	Existing SF	Temporary Location	Proposed Final Location	Proposed Final Square Footage			Proposed Final Cost/ SF		
					Renovated	New	Total	Renovated	New	Total
Admin						3,594			\$176.50	\$634,341
Kitchen						1,508			\$176.50	\$266,162
Employee Break						297			\$176.50	\$52,421
Laundry						746			\$176.50	\$131,669
Storage/Central Supply						638			\$176.50	\$112,607
Housekeeping						195			\$176.50	\$34,418
Classroom										\$0
Beauty/Barber						294			\$176.50	\$51,891
PT/OT/Speech						5,008			\$176.50	\$883,912
Nursing Support						3,305			\$176.50	\$583,333
Dining/Rec						6,640			\$176.50	\$1,171,960
Sun Room						550			\$176.50	\$97,075
Public/Staff Toilets						245			\$176.50	\$43,248
Patient Rms & Baths						32,571			\$176.50	\$5,748,782
B. Unit/Depart. GSF Sub-Total						55,591			\$176.50	\$9,811,812
C. Mechanical/ Electrical GSF										
D. Circulation /Structure GSF						1,853			\$176.50	\$327,055
E. Maintenance						19,462			\$176.50	\$3,435,043
						502			\$145.60	\$73,091
F. Total GSF						77,408			\$176.30	\$13,647,000

# Attachment 3

## PROJECTED DATA CHART

Give information for the two (2) years following completion of this proposal. The fiscal year begins in November (Month).

	Nov-16	Nov-17
A. Utilization Data (Specify unit of measure) (Patient Days)	17,306	31,211
(Specify unit of measure) (% Occupancy)	52.68%	95.01%
B. Revenue from Services to Patients		
1. Inpatient Services	\$8,165,303	\$15,389,049
2. Outpatient Services		
3. Emergency Services		
4. Other Operating Revenue (Specify)		
Gross Operating Revenue	\$ 8,165,303	\$ 15,389,049
C. Deductions for Operating Revenue		
1. Contractual Adjustments	\$ (2,580,619)	\$ (5,015,311)
2. Provision for Charity Care	(3,166)	(5,854)
3. Provisions for Bad Debt	(10,762)	(20,017)
Total Deductions	\$ (2,594,547)	\$ (5,041,182)
NET OPERATING REVENUE	\$ 5,570,756	\$ 10,347,867
D. Operating Expenses		
1. Salaries and Wages	\$ 2,550,092	\$ 3,662,636
2. Physician's Salaries and Wages	60,001	61,800
3. Supplies	96,758	180,037
4. Taxes	198,887	204,854
5. Depreciation	690,512	690,512
6. Rent		
7. Interest, other than Capital		
8. Management Fees		
a. Fees to Affiliates	167,123	310,436
b. Fees to Non-Affiliates		
9. Other Expenses (Specify) - SEE ATTACHED SCHEDULE	3,264,840	5,159,858
Total Operating Expenses	\$ 7,028,213	\$ 10,270,133
E. Other Revenue (Expenses)--Net (Specify)		
NET OPERATING INCOME (LOSS)	\$ (1,457,457)	\$ 77,734
F. Capital Expenditure		
1. Retirement of Principal		
2. Interest		
Total Capital Expenditures	\$ -	\$ -
NET OPERATING INCOME (LOSS)		
LESS CAPITAL EXPENDITURES	\$ (1,457,457)	\$ 77,734

PROJECTED DATA CHART SUPPLEMENT  
NHC Place at the Trace  
PROJECTED DATA  
YEAR 1

	<u>Salaries</u>	<u>Other</u>	<u>Total</u>
Inhalation Therapy		\$ 26,097	\$ 26,097
Occupational Therapy		292,916	292,916
Physical Therapy		324,429	324,429
Speech Pathology		73,240	73,240
Pharmacy		397,322	397,322
Lab and Radiology		76,401	76,401
IV Therapy		44,710	44,710
Nursing Service	1,633,814	634,234	2,268,048
Social Service	104,042	28,141	132,183
Activities	74,993	19,423	94,416
Dietary	226,907	215,827	442,734
Plant Operations	89,130	353,248	442,378
Housekeeping	111,865	49,508	161,373
Laundry and Linen	50,517	27,168	77,685
Medical Records	68,979	33,349	102,328
Administrative and General	<u>189,845</u>	<u>668,827</u>	<u>858,672</u>
Totals	<u><u>\$2,550,092</u></u>	<u><u>\$3,264,840</u></u>	<u><u>\$ 5,814,932</u></u>



PROJECTED DATA CHART SUPPLEMENT  
NHC Place at the Trace  
PROJECTED DATA  
YEAR 2

	<u>Salaries</u>	<u>Other</u>	<u>Total</u>
Inhalation Therapy		\$ 48,724	\$ 48,724
Occupational Therapy		569,399	569,399
Physical Therapy		579,912	579,912
Speech Pathology		149,605	149,605
Pharmacy		739,461	739,461
Lab and Radilology		141,925	141,925
IV Therapy		83,104	83,104
Nursing Service	\$2,394,778	814,325	3,209,103
Social Service	154,378	48,808	203,186
Activities	63,603	27,518	91,121
Dietary	303,446	377,157	680,603
Plant Operations	91,358	358,639	449,997
Housekeeping	231,443	96,847	328,290
Laundry and Linen	81,950	48,113	130,063
Medical Records	86,239	58,079	144,318
Adminstrative and General	<u>255,441</u>	<u>1,018,242</u>	<u>1,273,683</u>
Totals	<u>\$3,662,636</u>	<u>\$5,159,858</u>	<u>\$ 8,822,494</u>

STATE OF TENNESSEE  
Health Services and Development Agency



Certificate of Need No. CN1107-024A is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: National HealthCare Corporation  
100 Vine Street, 12th Floor  
Murfreesboro, TN 37130

For: The Health Center of Nashville

This Certificate is issued for: Change of site/relocation of CN1002-007A for the construction of a 150 bed nursing home.

On the premises located at: Unaddressed site at Southeast quadrant of Highway 100  
and Pasquo Road  
Nashville (Davidson County), TN 37221


For an estimated project cost of: \$23,894,100.00

The Expiration Date for this Certificate of Need is

November 1, 2014

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: September 28, 2011

  
Chairman

Date Issued: October 26, 2011

  
Executive Director

STATE OF TENNESSEE  
Health Services and Development Agency



Certificate of Need No. **CN1002-007A** is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: The Health Center of Nashville, LLC  
100 Vine Street  
Murfreesboro, TN 37130

For: The Health Center of Nashville, LLC

This Certificate is issued for: A change of site/relocation of 150 beds from McKendree Village, 4347 Lebanon Road, Hermitage (Davidson Co.) TN 37076 to 2816 Old Hickory Boulevard, Nashville (Davidson Co.), TN 37221. Pursuant to T.C.A. § 68-11-1628, the proposed site will be a newly constructed 150 bed nursing home located on approximately 50 acres. The Health Center of Nashville will be certified for both Medicaid and Medicare participation.

On the premises located at: 2816 Old Hickory Blvd.  
Nashville (Davidson County), TN 37221

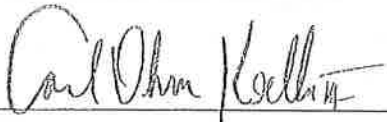
For an estimated project cost of: \$23,320,300.00

The Expiration Date for this Certificate of Need is


July 1, 2012

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: May 26, 2010

  
Chairman

Date Issued: June 23, 2010

  
Executive Director

**68-11-1628. Relocation of beds — Requirements — Certification Status.**

(a) Any existing licensed and operating nursing home may relocate less than all of its licensed beds to a new location or site if the following conditions are satisfied:

(1) The original facility has maintained an average annual occupancy rate for all licensed beds of at least eighty-five percent (85%) as reported on the joint annual reports for the calendar years 2006 and 2007;

(2) The proposed location for relocation of beds is within the original facility's service area;

(3) The original facility is part of a continuing care retirement community that offers long term care, including services that included skilled nursing facility (SNF) services, assisted living and independent living;

(4) The original facility is licensed for more than two hundred ninety (290) beds by the department of health and was certified within the preceding twelve (12) months for medicaid and medicare participation; and

(5) An application for the relocation of the beds is filed with and approved by the health services development agency pursuant to this part.

(b) Any beds relocated to a new location shall initially have the same medicaid certification status that the original, existing nursing home relocating its beds maintains when the certificate of need is granted allowing the movement of beds.

(c) Nothing in this section shall affect a certificate of need project filed before June 3, 2008.

**History.**

Acts 2008, ch. 1089, § 2; 2009, ch. 51, § 1.

**68-11-1629. Conditions for relocation of beds by an existing licensed and operating nursing home.**

(a) Any existing licensed and operating nursing home may relocate all or fewer than all of its licensed beds to no more than two (2) new locations if the following conditions are satisfied:

(1) The original facility is subject to a condemnation proceeding by a railroad that has a property interest in property adjacent to the facility's property;

(2) The original facility is licensed for more than two hundred thirty (230) beds by the department of health and is certified for medicaid and medicare participation;

(3) Any proposed location for relocation of beds is within the original facility's service area; and

(4) One (1) or more applications for the relocation of the beds is filed with and approved by the health services development agency pursuant to this part.

(b) Nothing in this section shall affect a certificate of need project filed before April 9, 2009.

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125; 2011,  
12, ch. 575,

## § 1.

services" for "department of mental health" in (d)(8).

**Amendments.**

The 2012 amendment substituted "department of mental health and substance abuse

**Effective Dates.**

Acts 2012, ch. 575, § 3. July 1, 2012.

### 68-11-1628. Relocation of beds — Requirements — Certification Status.

**Section to Section References.**

This section is referred to in § 68-11-1631.

### 68-11-1631. Qualified partial relocation of certain nursing home facilities.

(a) Notwithstanding any other law, the agency shall consider a certificate of need application for a qualified partial relocation of a nursing home facility.

(b) A certificate of need application for a qualified partial relocation of a nursing home facility refers only to the following circumstances:

(1) The holder of an unimplemented certificate of need issued under § 68-11-1628, prior to January 1, 2012, seeks to relocate within the same county a portion of the nursing home beds that are the subject of the unimplemented certificate of need; or

(2) An existing nursing home facility seeks to relocate to a new site within the same county up to fifty percent (50%) of its existing licensed nursing home beds; provided, that the nursing home facility meets all of the following criteria:

(A) The nursing home facility has at least one hundred eighty (180) licensed beds;

(B) The nursing home facility has operated for at least twenty-five (25) years at a location within five hundred feet (500') of a general acute care hospital that has more than two hundred (200) licensed beds; and

(C) The general acute care hospital relocated to a new site within the same county and more than two (2) miles from its previous location;

(c) An application for a qualified partial relocation of a nursing home facility that does not seek to increase the number of licensed beds from the number of beds to be relocated shall be reviewed by the department and considered by the agency pursuant to § 68-11-1609(b), and shall not be considered new nursing home beds. The criteria of §§ 68-11-1621 and 68-11-1622 shall not apply to an application for a qualified partial relocation of a nursing home facility.

(d) If an application for a qualified partial relocation of a nursing home facility seeks to increase the number of licensed beds from the number of beds to be relocated, that portion of the application that increases the number of beds shall comply with § 68-11-1622, and shall be considered new nursing home beds. The remaining part of the application relative to the qualified partial relocation shall be reviewed by the department and considered under the criteria set out in subsection (c).

**History.**

Acts 2012, ch. 618, § 1.

**Effective Dates.**

Acts 2012, ch. 618, § 2. March 23, 2012.



## **GENERAL COUNSEL'S REPORT**

### **SEPTEMBER 25, 2013**

**C. Shelby County Health Care Corporation d/b/a Regional Medical Center, Memphis (Shelby County), TN — CN1208-037A**

Request for modification by adding a 2<sup>nd</sup> operating room (OR) in the burn unit and building out a 4<sup>th</sup> OR that was originally planned to be shelled in until needed. If approved, The MED will temporarily relocate the burn unit OR into the new 4th OR on the 1<sup>st</sup> floor of Turner Tower.

The 2<sup>nd</sup> OR in the burn unit was not included in the CON. If approved, once renovations are complete Turner Tower will contain 6 ORs with 2 located in the Burn Unit on the Ground Floor and 4 on the 1<sup>st</sup> Floor dedicated to outpatient surgery.

CN1208-037A was approved on November 14, 2011 by unanimous voice vote (8-0) for major renovations of the Turner Tower with an estimated project cost of \$28,400,000. The renovations include: conversion of 10 med/surg beds to rehab beds; relocation of its existing 20 bed rehab unit, and expansion of the unit to 30 beds; general renovation of Turner Tower, including the build-out of unused space for a 24 bed med/surg unit; the relocation of an existing 10 bed med/surg unit to Turner Tower; and the addition of 3 ORs to be dedicated to outpatient surgery in Turner Tower. The expiration date is January 1, 2016. A subsequent CON, CN1210-052A, relocated Memphis Long-Term Care Specialty Hospital into the space that was originally planned to be used as the 24-bed med/surg unit.





**WEEKS & ANDERSON**

*An Association of Attorneys*

**2021 RICHARD JONES ROAD, SUITE 350**

**NASHVILLE, TENNESSEE 37215-2874**

**TELEPHONE 615/383-3332**

**FACSIMILE 615/383-3480**

KENT M. WEEKS  
ROBERT A. ANDERSON

September 16, 2013

DIRECT TELEPHONE NUMBER: 615/370-3380

F. B. MURPHY, JR.  
E. GRAHAM BAKER, JR.

Melanie Hill, Executive Director  
Tennessee Health Services & Development Agency  
Frost Building, 3<sup>rd</sup> Floor  
161 Rosa L. Parks Boulevard  
Nashville, TN 37243

Re: General Counsel's Report: September 25, 2013  
Shelby County Healthcare Corporation, d/b/a The Regional Medical Center at  
Memphis (The "MED")  
Operating Rooms

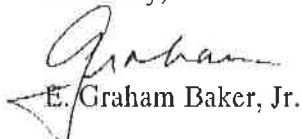
Dear Melanie:

Attached is a copy of the revised budget for the Turner Tower renovation project which was approved by the HSDA (CN1208-027A). The budget (as originally approved and as shown in the attached revised copy) included \$2,718,023 in contingency reserves. To date, only about \$400,000 of that amount has been spent, and that cost was necessitated when it was realized that the HVAC unit(s) for the burn unit needed to be replaced. The build out of the 4<sup>th</sup> OR (originally approved to be shelled in for later use) will cost only \$101,335, as shown on the attached revised budget. This amount will be taken from the contingency reserve, and no additional funds will be required to complete the project.

As to the cost of the 2<sup>nd</sup> burn OR, this project was already under way when we filed the Turner Tower renovation project, as there was a pressing need to add the 2<sup>nd</sup> burn OR and no CON was required to add it. The Board of The MED approved a total of \$30,000,000 for Turner Tower renovations, of which only \$28,400,000 was required for the CON. The additional funds (\$1.6M) that are already approved and set aside will more than adequately cover the cost of adding the 2<sup>nd</sup> burn OR.

If you have any additional questions, please contact me.

Sincerely,

  
E. Graham Baker, Jr.

/np

Enclosure as noted



PROJECT COSTS CHART

	REHAB	OUTPATIENT OR	OR #4 BUILDOUT	TURNER TOWER / CCW / INFRASTRUCTURE	TOTAL
A. Construction and equipment acquired by purchase.					
1 Architectural and Engineering Fees	\$ 250,634	\$ 286,000	\$ -	\$ 395,146	\$ 542,030
2 Legal, Administrative, Consultant	\$ 95,700	\$ 448,800	\$ -	\$ 3,550	\$ 550,000
3 Acquisition of Site	\$ -	\$ -	\$ -	\$ -	\$ -
4 Preparation of Site	\$ -	\$ -	\$ -	\$ -	\$ -
5 Construction Costs	\$ 3,900,000	\$ 4,115,000	\$ 63,411	\$ 9,363,137	\$ 17,362,137
6 Contingency Fund	\$ 428,373	\$ 917,950	\$ -	\$ 1,270,365	\$ 2,718,023
7 Fixed Equipment (Not included in Construction Contract)	\$ 672,020	\$ 2,191,000	\$ 37,890	\$ 840,000	\$ 3,613,003
8 Movable Equipment (List all equipment over \$50,000)	\$ 550,150	\$ 786,825	\$ -	\$ 1,503,835	\$ 2,853,810
9 Other (Specify)	\$ -	\$ -	\$ -	\$ -	\$ -
Subsection A Total	\$ 5,904,907	\$ 8,655,575	\$ 101,335	\$ 13,693,183	\$ 28,355,000
B. Acquisition by gift, donation, or lease.					
1 Facility (Inclusive of Building and Land)	\$ -	\$ -	\$ -	\$ -	\$ -
2 Building Only	\$ -	\$ -	\$ -	\$ -	\$ -
3 Land Only	\$ -	\$ -	\$ -	\$ -	\$ -
4 Equipment (Specify)	\$ -	\$ -	\$ -	\$ -	\$ -
5 Other (Specify)	\$ -	\$ -	\$ -	\$ -	\$ -
Subsection B Total	\$ -	\$ -	\$ -	\$ -	\$ -
C. Financing costs and fees					
1 Interest Financing	\$ -	\$ -	\$ -	\$ -	\$ -
2 Underwriting Costs	\$ -	\$ -	\$ -	\$ -	\$ -
3 Reserve for One Year's Debt Service	\$ -	\$ -	\$ -	\$ -	\$ -
4 Other (Specify)	\$ -	\$ -	\$ -	\$ -	\$ -
Subsection C Total	\$ -	\$ -	\$ -	\$ -	\$ -
D. Estimated Project Cost (A + B + C)	\$ 5,904,907	\$ 8,655,575	\$ 101,335	\$ 13,693,183	\$ 28,355,000
E. COM Filing Fee (\$2.25 per \$1,000 = \$45,000 max.)	\$ -	\$ -	\$ -	\$ -	\$ 45,000
F. Total Estimated Project Cost (D + E)	\$ -	\$ -	\$ -	\$ -	\$ 28,400,000



WEEKS & ANDERSON

*An Association of Attorneys*

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KENT M. WEEKS  
ROBERT A. ANDERSON

DIRECT TELEPHONE NUMBER: 615/370-3380

F. B. MURPHY, JR.  
E. GRAHAM BAKER, JR.

August 30, 2013

James B. Christoffersen, General Counsel  
Tennessee Health Services & Development Agency  
Frost Building, Third Floor  
161 Rosa L. Parks Boulevard  
Nashville, Tennessee 37243

Re: General Counsel's Report: September 25, 2013  
Shelby County Healthcare Corporation, d/b/a The Regional Medical Center at Memphis  
(The "MED")  
Operating Rooms

Dear Jim:

The MED was recently approved for a major renovation of Turner Tower on our campus in Memphis (CN1208-037A). Part of this project was the creation of three (3) additional operating rooms (ORs), plus one (1) additional "shelled in" space for another OR to be converted as needed. These new ORs (located on the first floor of Turner Tower) are to be dedicated to outpatient surgery, with appropriate ingress/egress for our patients. The renovation of Turner Tower has progressed on schedule, and these ORs will soon open. Licensure has allowed us to occupy the space, and it will soon be licensed (we are awaiting installation of equipment).

Included in this major renovation project was some renovation of the existing Burn Unit, located on the Ground Floor at Turner Tower. The MED currently operates one OR that is dedicated to burn patients. Due to various factors, including medical staff increases, we now find that our existing one Burn Unit OR is not sufficient to provide acceptable operating room services for our patients requiring such services. Also, the renovation of space adjacent to our existing burn OR is not conducive to the uninterrupted provision of OR services to burn patients. Part of the problem is that the HVAC system in the Burn Unit has to be replaced.

We propose and request approval to:

1. Temporarily "move" the existing Ground Floor burn OR to the first floor of Turner Tower into the 4<sup>th</sup> OR that was to be shelled in as part of CN1208-037A;

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2. Continue with our renovation of the existing burn unit, including the addition of a 2<sup>nd</sup> burn OR on the Ground Floor of Turner Tower (all of this renovation is included in the overall costs of CN1208-037A);
3. Once the burn unit is renovated, resume OR functions for burn patients in the (now) two burn ORs on the Ground Floor of Turner Tower; and
4. Allow the 4<sup>th</sup> OR on the First Floor (originally to be shelled in) to remain as an OR for outpatient use, as needed. We do not anticipate needing this 4<sup>th</sup> OR immediately, but believe it would not be cost-effective to "strip" this room back to a "shelled in" status.

Thank you for your consideration of this matter. If you need further information, please contact me at your convenience.

Respectfully,



E. Graham Baker, Jr.  
/np

- c: Reginald Coopwood, M.D., President & CEO, The MED  
J. Richard Wagers, Jr., Executive Vice President & CFO, The MED  
Monica N. Wharton, Esq., Senior Vice President, Chief Legal Officer & General Counsel, The MED  
Bret L. Perisho, CPA, Vice President, Strategic Business Development and Corporate Finance, The MED

## Melissa Bobbitt

---

**From:** Melanie Hill  
**Sent:** Friday, August 09, 2013 2:28 PM  
**To:** Mark Farber; Jim Christoffersen; Melissa Bobbitt  
**Subject:** RE: The MED, CN1208-037A

Needs to be on GC report as report to agency or req for modification if agency so chooses--- so there will be a record of agency notification- graham will then have a letter he can give to TDH to get them to inspect it.

---

**From:** Mark Farber  
**Sent:** Friday, August 09, 2013 2:14 PM  
**To:** Melanie Hill; Jim Christoffersen  
**Subject:** FW: The MED, CN1208-037A

Your thoughts?

---

**From:** Graham Baker [graham@grahambaker.net]  
**Sent:** Friday, August 09, 2013 1:16 PM  
**To:** Mark Farber  
**Cc:** Bret Perisho; Mike Purcell  
**Subject:** The MED, CN1208-037A

Mark,

The referenced application was approved for a major renovation (\$28M) of Turner Tower on the campus of The MED in Memphis. Part of that application involved the addition of 3 ORs to be dedicated to outpatient surgery, with a 4th OR to be shelled in to be utilized later, all on the 1st floor of Turner Tower (5 story building, ground floor, plus floors 1,2,3, & 4). This outpatient surgery suite is operated as a department within the hospital (is NOT a separate ASTC). The construction of this outpatient OR suite is practically complete.

The MED also operates an OR (within its burn unit) on the ground floor of this building, which was explained in the application. We want to renovate space adjacent to our existing burn OR to have a 2nd burn OR, based on increased utilization in the burn unit, but there are safety concerns (contamination, etc.) when renovating space adjacent to our existing burn OR.

Therefore, we want to temporarily "move" the existing burn OR up to the 1st floor into the 4th outpatient OR, construct the 2nd burn OR on the ground floor, and then "move" the burn OR back to the ground floor. At that point, we will have 2 burn ORs on the ground floor, 3 outpatient ORs on the 1st floor, and the 4th OR adjacent to the outpatient suites on the first floor. Utilization of that 4th OR on the 1st floor would depend on future need.

Please advise if this "moving around" of the ORs is consistent with your understanding of our CON. We believe it is.

Graham

E. Graham Baker, Jr.  
Weeks and Anderson  
2021 Richard Jones Road, Suite 350

STATE OF TENNESSEE  
Health Services and Development Agency



Certificate of Need No. **CN1208-037A** is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: Shelby County Health Care Corporation  
877 Jefferson Avenue  
Memphis, TN 38103

For: Shelby County Health Care Corporation d/b/a Regional Medical Center

This Certificate is issued for:

- a) The conversion of ten (10) med/surg beds to rehab beds;
- b) The relocation of its existing twenty (20) bed rehab unit, after which a thirty (30) bed rehab unit be operated in Turner Tower;
- c) The addition of three (3) operating rooms to be dedicated to outpatient surgery operated in Turner Tower;
- d) The general renovation of Turner Tower, including the buildout of unused space for a twenty-four (24) bed unit which will be utilized as med/surg hospital beds; and
- e) The relocation of an existing ten (10) bed med/surg unit to Turner Tower, which will result in six (6) staffed med/surg beds.

Other than mentioned above, there are no new licensed beds and no major medical equipment involved with this project. The number of total licensed beds will not change. No other health services will be initiated or discontinued.

On the premises located at: 877 Jefferson Avenue  
Memphis (Shelby County), TN 38103


For an estimated project cost of: \$28,400,000.00

The Expiration Date for this Certificate of Need is

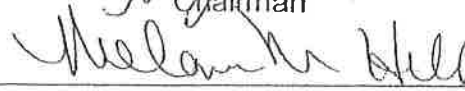
January 1, 2016

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: November 14, 2012

  
Chairman

Date Issued: December 12, 2012

  
Executive Director



**Shelby County Health Care Corporation d/b/a Regional Medical Center,  
Memphis (Shelby County), TN — CN1208-037A**

Jim Christoffersen

**Sent:** Monday, September 09, 2013 1:28 PM

**To:** Graham Baker [graham@grahambaker.net]

**Cc:** Melanie Hill; Melissa Bobbitt

How much will these changes add to/subtract from the project cost?

Jim Christoffersen

General Counsel

Tennessee Health Services and Development Agency

161 Rosa L. Parks Blvd., 3rd Fl.

Nashville, TN 37203

(615) 741-2364



## **GENERAL COUNSEL'S REPORT**

### **SEPTEMBER 25, 2013**

- D. Memphis Long Term Care Specialty Hospital, Memphis (Shelby County), TN — CN1210-052A**  
Request for the removal of the condition that it shall be limited to 24 beds, and that it shall not be permitted to add to the number of beds without applying for a new CON. As a hospital with less than 100 beds, this would enable it to add up to 10 beds every twelve months without seeking a CON for the addition of beds.

The first CON for the establishment of Memphis Long Term Care Specialty Hospital, Memphis (Shelby County), TN — CN0603-019AM, was approved by a vote of 6-1 on July 26, 2006 with the condition that it shall be limited to 24 beds, and that it shall not be permitted to add to the number of beds without applying for a new CON. TCA 68-11-1607(g), which would otherwise permit a hospital to add up to 10 beds every twelve months without seeking a CON for the addition of beds, would not be something Memphis Long Term Care Specialty Hospital could utilize because of the condition. The condition was proposed by one of the parties opposed to the project, agreed to by the applicant, and referenced by Mr. Atchley when moving for approval of the application.

CN0908-046AE was approved unanimously for the relocation of the twenty-four (24) bed long term acute care hospital (approved but unimplemented CN0906-019AM) from Getwell Road to the intersection of Kirby Parkway and Kirby Gate Boulevard in Memphis (Shelby County). CN0908-046AE authorized the relocation of what had been approved previously, and did not lift any of the conditions.

CN1210-052A was approved unanimously on December 12, 2012 for the relocation of the twenty-four (24) bed long term acute care hospital (approved but unimplemented CN0908-046AE) from the intersection of Kirby Parkway and Kirby Gate Boulevard to the main campus of The MED with an estimated project cost of \$8,208,743.21. The expiration date is February 1, 2016. CN1210-052A authorized the relocation of what had been approved previously, and did not lift any of the conditions.



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KENT M. WEEKS  
ROBERT A. ANDERSON

F. B. MURPHY, JR.  
E. GRAHAM BAKER, JR.

DIRECT TELEPHONE NUMBER: 615/370-3380

August 30, 2013

James B. Christoffersen, General Counsel  
Tennessee Health Services & Development Agency  
Frost Building, Third Floor  
161 Rosa L. Parks Boulevard  
Nashville, Tennessee 37243

Re: General Counsel's Report: September 25, 2013  
Memphis Long Term Care Specialty Hospital, LLC  
(Name has been changed: Regional MED Extended Care Hospital, LLC)  
Request to Have CON Restriction Removed  
Reference: T.C.A. §68-11-1607(g)

Dear Jim:

Memphis Long Term Care Specialty Hospital, LLC (the "LTACH") was approved for 24 beds in 2006 (CN0603-019A). This LTACH was relocated to another site in Memphis under CN0908-046A in 2009. In 2012, the CON for this LTACH was purchased by Shelby County Healthcare Corporation, d/b/a The Regional Medical Center at Memphis (the "MED"), and subsequently relocated to The MED's campus under CN1210-052A. This LTACH will soon open in the renovated Turner Tower on the campus of The MED.

It is our understanding that when this LTACH was originally approved in 2006, existing facilities in Memphis agreed to withdraw opposition to the project if the applicant would agree to a restriction on the CON. This restriction abrogated the applicant's statutory ability to add beds without obtaining a certificate of need. Specifically, T.C.A. §68-11-1607(g) states:

"A hospital with fewer than one hundred (100) licensed beds may increase its total number of licensed beds by ten (10) beds over any period of one (1) year without obtaining a certificate of need. The hospital shall provide written notice of the proposed increase in beds to the agency on forms provided by the agency, prior to the hospital's request for review to the board of licensing health care facilities."

The applicant/owner for the LTACH at that time agreed to the restriction; there was no opposition to the project if the restriction would be placed on the CON; and the application was approved with the restriction.

The MED respectfully requests the removal of the CONDITION that additional beds cannot be added without a new certificate of need. Removal of the CONDITION would permit the addition of 10 beds over any period of one (1) year without obtaining a certificate of need, under T.C.A. §68-11-1607(g). Further, The MED requests this be placed on the General Counsel's Report for the September 25, 2013 meeting of the HSDA. Please consider this letter our official request to have this restriction removed from our CON.

On behalf of The MED and in compliance with HSDA statutes and rules, I am sending a copy of this request to each of the existing long term acute care hospitals in Memphis and their respective attorneys (with whom I have personally discussed this request), and a notice will be placed in the *Commercial Appeal* some time between the 1<sup>st</sup> and the 10<sup>th</sup> of September (newspaper copy attached).

Thank you for your consideration of this request. If you need further information, please contact me at your convenience.

Respectfully,

  
E. Graham Baker, Jr.  
/np

- c: Kris Kitzke, Administrator, Select Specialty Hospital – Memphis  
Janice Hill, Administrator, Baptist Memorial Restorative Care Hospital  
Sandra Bailey, Administrator, Methodist Extended Care Hospital, Inc.  
Byron R. Trauger, Esq., TRAUGER & TUKE (via email)  
Dan H. Elrod, Esq., BUTLER, SNOW et al (via email)  
Reginald Coopwood, M.D., President & CEO, The MED  
J. Richard Wagers, Jr., Executive Vice President & CFO, The MED  
Monica N. Wharton, Esq., Senior Vice President, Chief Legal Officer & General Counsel, The MED  
Bret L. Perisho, CPA, Vice President, Strategic Business Development and Corporate Finance, The MED

The following shall be published in the "Legal Notices" section of the newspaper on September 05, 2013, for one day, only, in a space no smaller than two (2) columns by two (2) inches.

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**NOTIFICATION OF INTENT TO REQUEST REMOVAL OF RESTRICTION ON AN  
EXISTING CERTIFICATE OF NEED**

This is to provide official notice to the Health Services and Development Agency and all interested parties, in accordance with T.C.A. §68-11-1601, et seq., and the Rules of the Health Services and Development Agency, that Shelby County Healthcare Corporation, d/b/a The Regional Medical Center at Memphis (the "MED"), owner of Regional MED Extended Care Hospital, LLC, f/k/a Memphis Long Term Care Specialty Hospital, LLC, 877 Jefferson Avenue, Memphis, TN 38103, is requesting that the removal of the CONDITION that additional beds cannot be added without a new certificate of need. Removal of the CONDITION would permit the addition of 10 beds over any period of one (1) year without obtaining a certificate of need, under T.C.A. §68-11-1607(g). This request is to be placed on the General Counsel's Report for the September 25, 2013 meeting of the HSDA.

The contact person for this request is E. Graham Baker, Jr., Attorney, who may be reached at 2021 Richard Jones Road, Suite 350, Nashville, TN 37215, 615/370-3380.

**Upon written request by interested parties, a local Fact-Finding public hearing shall be conducted. Written requests for hearing should be sent to:**

**Health Services and Development Agency  
Andrew Jackson Building  
500 Deaderick Street, Suite 850  
Nashville, Tennessee 37243**

The published Letter of Intent must contain the following statement pursuant to T.C.A. § 68-11-1607(c)(1). (A) Any health care institution wishing to oppose a Certificate of Need application must file a written notice with the Health Services and Development Agency no later than fifteen (15) days before the regularly scheduled Health Services and Development Agency meeting at which the application is originally scheduled; and (B) Any other person wishing to oppose the application must file written objection with the Health Services and Development Agency at or prior to the consideration of the application by the Agency.

=====

*Ms. Troy recused*

Memphis Long Term Care Specialty Hospital - (Memphis, Shelby County) - Project No. CN0603-019

The establishment of a long term acute care hospital containing twenty-four (24) beds. The hospital will be located on the third floor of Americare Health Center of Memphis, an existing licensed 237 bed nursing home. No other health care services will be initiated. Project Cost \$750,000.00.

Michael D. Brent, Esq., representing the applicant, addressed the Agency. Dr. Kathleen Griffin spoke on behalf of the project and Dr. Henry Stamps spoke in support of the project. Present in support were: Raymond Jeffers, MD; Monica Edwards, Esq.; and Michael Hampton, Americare.

Speaking in opposition were: Dan H. Elrod, Esq., representing, Baptist Memorial Health Care; and Graham Baker, Esq., representing, Select Specialty Hospital-Memphis. Present in opposition was Arthur Maples, Director Strategic Analysis, Baptist Memorial Health Care.

Mr. Brent rebutted.

Mr. Elrod and Mr. Baker summated for the opposition.

Mr. Brent summated for the applicant.

Mr. Atchley moved for approval of the project based on: 1) Need – The need will be met for a segment of population that is not being served, they are in that vicious circle of going home and back to the hospitals; 2) Economic Feasibility – The project is economically feasible, based on 60% TennCare; and 3) The project does contribute to the orderly development of adequate and effective health care by taking care of the segment of population not being served. **CONDITIONS: Not withstanding T.C.A. § 68-11-1607(g) additional beds cannot be added without a new Certificate of Need. TennCare contract must be proven in one (1) year, if not proven, the CON will be subject to a Revocation Hearing. Services are to be limited to Long term acute care patients as defined by current or subsequent CMS regulations.** Dr. Caldwell seconded the motion. The motion CARRIED [6-1-0]. **APPROVED**

AYE: Flowers, Caldwell, Atchley, Lammert, Weaver, Jones  
NAY: Koella

Crown Surgery Center - (Tullahoma, Coffee County) - Project No. CN0604-024

Establishment of an ambulatory surgical treatment center with two (2) operating rooms. Project Cost \$442,850.00.

Donna Myers, CEO, representing the applicant, addressed the Agency. Shea Love, President and Michael Love were present on behalf of the project.

Graham Baker, Esq., representing Ambulatory Surgical Associates, stated that opposition will be withdrawn if the center is for single specialty limited to dental and oral/maxillofacial surgery.

Mr. Lammert moved for approval of the project based on: 1) Need – There is a need for the service in the Tullahoma area; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care in the Tullahoma area. **CONDITION: A single-specialty ASTC limited to dental and oral/maxillofacial surgery only and does not include plastic surgery.** Dr. Caldwell seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Troy, Flowers, Caldwell, Atchley, Lammert, Weaver, Jones, Koella  
NAY: None

Roane Medical Center - (Harriman, Roane County) - Project No. CN0604-025

The initiation of swing bed services through the conversion of ten (10) acute care beds to swing beds. The total number of licensed beds will be reduced from 109 to 105. Other than swing beds no other health services will be initiated or discontinued. Project Cost \$17,000.00. \* These beds are subject to the 125 nursing home bed pool for 2005-2006.



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1 over. There was nothing more that we could do, or even  
2 wanted to do. And yet, the status of the construction there  
3 last week, this is a picture taken last week. It is true  
4 they have done site prep. This is what the site looks like.  
5 It's been six years. And it's been over -- about  
6 two-and-a-half years since our appeal was dismissed. And  
7 this is all that's been developed.

8 My point is the need has grown in that time.  
9 The surgical volume has grown in that time. And I agree  
10 with Ms. Troy. Investment will -- utilization will follow  
11 investors. They've got 14 investors. We've got we think,  
12 16 or somewhere in that neighborhood. We obviously think we  
13 can develop ours with that number. They can develop theirs  
14 with that number. They'll have sufficient utilization.

15 The numbers are there regardless of which  
16 version of Mr. Taylor's report you take. There is a need  
17 for nine more rooms in the area. They're going to provide  
18 four. We want to add three. There will still be a net  
19 need. And it will not impact Morristown, the Meridian  
20 Center. The impact will be on Lakeway. And Lakeway is big  
21 enough and strong enough and has enough volume to take a  
22 reduction in utilization from the surgeons.

23 The need is clear. The economic feasibility is  
24 there. And it will contribute to the orderly development of  
25 health care because in an eight-county area, there is only

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1 one surgery center even being built right now. There is a  
2 need for more. People need to have access to these types of  
3 facilities. So, in light of that, we urge your approval of  
4 our application. Thank you.

5 MR. CHAIRMAN: Discussion by the Members.

6 Mr. Jones.

7 MR. JONES: Mr. Chairman, I am somewhat  
8 concerned about location proximity. They say there is a  
9 need for this. But then, again, when you put them -- it's  
10 centrally located 1,500 feet apart, that seems like it would  
11 be a problem to serve the need of all of the people in the  
12 area with that close a location to me.

13 MR. CHAIRMAN: Thank you. Anyone else? I'll  
14 make a quick comment. I guess I'm somewhat startled by the  
15 tactic of saying, Well, they haven't done anything in years.  
16 It was appealed for a number of years. Even if it's been a  
17 couple of years since the appeal ended, you lose contractors  
18 on projects. You lose momentum. I don't have a lot of  
19 patience with that line of thinking.

20 Mr. Atchley.

21 MR. ATCHLEY: As far as location goes, how close  
22 are the two hospitals? Aren't they fairly close together?  
23 The whole medical community in Hamblen County is about a  
24 four or five block area. That's what I thought.

25 MR. CHAIRMAN: If no further discussion, a

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1 motion is in order. I'll make a motion to deny the  
2 certificate of need based on the lack of need. And there  
3 was no demonstrated, no demonstrated -- it's not orderly.  
4 The way this is done, it's clearly not orderly. And that's  
5 the basis of my objection.

6 COMMISSIONER FLOWERS: Second.

7 MR. CHAIRMAN: This is a motion to deny the  
8 certificate of need. Please call the roll.

9 MS. BOBBITT: Troy.

10 MS. TROY: Yes.

11 MS. BOBBITT: Flowers.

12 COMMISSIONER FLOWERS: Yes.

13 MS. BOBBITT: Caldwell.

14 DR. CALDWELL: Yes.

15 MS. BOBBITT: Atchley.

16 MR. ATCHLEY: No.

17 MS. BOBBITT: Lammert.

18 MR. LAMMERT: Yes.

19 MS. BOBBITT: Weaver.

20 MS. WEAVER: No.

21 MS. BOBBITT: Jones.

22 MR. JONES: Yes.

23 MS. BOBBITT: Koella.

24 MR. KOELLA: Yes.

25 MS. BOBBITT: Six, yes; two, no.

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1 MR. CHAIRMAN: Thank you. The certificate of  
2 need is not granted. We'll take a very quick five-minute  
3 break. I will remind you, we've got the majority of the  
4 agenda ahead of us.

5 \* \* \* \* \*

6 MR. CHAIRMAN: Let the record show that Ms. Troy  
7 has recused herself on this application. Mr. Farber  
8 (MS. TROY RECUSED HERSELF FROM MEMPHIS LONG-TERM CARE.)

9 \* \* \* \* \*

10 D. MEMPHIS LONG-TERM CARE SPECIALTY HOSPITAL - CN0603-019

11 MR. FARBER: Memphis Long-Term Care Specialty  
12 Hospital Memphis, Shelby County, CN0603-019.

13 This project is for the establishment of a long-  
14 term acute care hospital containing twenty-four (24) beds.  
15 The hospital will be located on the third floor of American  
16 Health Center of Memphis, an existing licensed 237-bed  
17 nursing home. No other health care services will be  
18 initiated.

19 Estimated project cost is \$750,000.

20 Please note that there is opposition to this  
21 application from Select Specialty Hospital-Memphis and  
22 Baptist Memorial Health Care Corporation.

23 Here on behalf of the applicant are Michael  
24 Brent, Michael Hampton and Dr. Henry Stamps.

25 MR. CHAIRMAN: Is there opposition to the

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 1 application? Are there others in the audience in favor of  
 2 the application who are not part of the application? Okay.  
 3 Thank you. Please, begin.  
 4 MR. BRENT: Thank you. Mr. Brent. Thank you  
 5 good afternoon, I'm Mike Brent with Bolt, Cummings Connors &  
 6 Berry here in Nashville, as Special Counsel for the  
 7 applicant. Also, participating with me will be Dr. Kathleen  
 8 Griffin, a health care consultant, who has worked on a lot  
 9 of LTAC projects around the country, including some here in  
 10 Tennessee.  
 11 And as Mr. Farber mentioned, Michael Hampton,  
 12 CEO, of AmericARE is here to answer questions, along with  
 13 Monica Edwards, their General Counsel, and  
 14 Dr. Jeffers, their Medical Director. Dr. Henry Stamps is in  
 15 the audience, and he is President Elect of the Gulf  
 16 City Medical Society, and I think he wants to speak for a  
 17 couple of moments in favor of the project, as well.  
 18 I'm sure this application looks like deja vu to  
 19 most of you, as it is similar to an application that you  
 20 heard and denied back in November. But we heard your  
 21 concerns that were raised in that discussion, and AmericARE  
 22 has put a lot of effort into revising the application,  
 23 downsizing the project to 30 -- excuse me, to 24 beds, still  
 24 establishing an LTAC in a freestanding base, not a hospital  
 25 in a hospital, to address the needs not only to folks in

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 1 Memphis but other areas in west Tennessee, northern  
 2 Mississippi, eastern Arkansas and the Boothill of Missouri.  
 3 Many of these people are either TennCare  
 4 enrollees or Medicaid in those other states that I  
 5 mentioned, and when we were here in November, you raised  
 6 some questions about whether or not TennCare would pay us to  
 7 do this. We have spent a considerable amount of time with  
 8 two of the largest MCOs in west Tennessee and with TennCare.  
 9 And there are some documents in your packet, Bates-stamped  
 10 pages 91, 213 and 215, which we think hopefully adequately  
 11 addresses the fact that those two largest MCOs will  
 12 hopefully contract with us. They can't right now because we  
 13 don't have a license. But they would contract with us, and  
 14 TennCare has a letter in there that indicates that they  
 15 think they could do that.  
 16 If you look at those MCOs that are mentioned in  
 17 there and the others in the area, we hope would follow suit,  
 18 you've got over 300,000 folks covered by those MCOs in the  
 19 service area that we have drawn. That market of about  
 20 300,000 TennCare folks, and if you look at the counties in  
 21 the other states that I mentioned and look at their rates of  
 22 Medicaid utilization, that's a couple of hundred thousand,  
 23 as well.  
 24 We were opposed by all three LTACs in Memphis.  
 25 Two of those filed opposition to today's opposition, but we

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 1 hope we have addressed that with them. The letter from  
 2 Baptist mentioned a couple of conditions and we have talked  
 3 with both Baptist and Select Specialty's Counsel, Mr. Elrod  
 4 and Mr. Baker can address that.  
 5 I would note that the Department of Health's  
 6 summary noted on the 77 beds were needed in this area. But  
 7 we believe if you take into account the out-of-Tennessee  
 8 areas, which they logically did not look at that we have got  
 9 a need for more than that. And we have a chart that kind of  
 10 summarizes those numbers. We've got over 300,000 in  
 11 Arkansas, over 600,000 in Mississippi and about 20,000 in  
 12 the Boot Hill of Missouri. It will give you a million  
 13 folks, as well as a million-and-a-half in Tennessee. So,  
 14 with that two and-a-half million population, we think there  
 15 is support for 129 that we can justify.  
 16 I won't go into a lot of detail. We'll be glad  
 17 to answer questions about the campus, and so forth. As  
 18 you'll recall, this is the old Oakville Campus. It's been  
 19 around literally for a century in Memphis dealing with the  
 20 folks in that area who need long-term care and other things  
 21 over the course of this campus during those many years.  
 22 With that, the other point I would make is there  
 23 is in the application on pages 32 and 33, other  
 24 methodologies, as well as a .5 per 10,000 people that some  
 25 people would use that shows there's need much greater, even

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 1 than 129, based on .5 per 10,000. So, at this time, I would  
 2 like to ask Dr. Griffin to address a few points. Thank you.  
 3 DR. GRIFFIN: I'm Kathleen Griffin. From 1990  
 4 to 1992, I was the CEO of American Transitional Hospitals,  
 5 which was one of the earlier LTAC companies. In fact, was  
 6 eventually sold to Select Medical, who became the corporate  
 7 hospital for Select Medical. And I've been consulting with  
 8 LTACs since 1992.  
 9 Just a few comments on the nature of the  
 10 long-term acute care hospital known in vernacular as an LTAC,  
 11 that is in the proposed CON. First, successful and  
 12 well-known providers have established LTACs in their same  
 13 facility buildings. In fact, Kindred, right here in  
 14 Nashville, has a very successful running with their  
 15 long-term care. And Kindred, by the way, has some of the  
 16 highest-acuity patients of anybody in the entire United  
 17 States. So, they're still admitting very high-acuity  
 18 patients to the long-term acute care hospital located in a  
 19 nursing facility building.  
 20 The reason is simple. Your costs are so much  
 21 lower when you take an existing building and convert it to  
 22 hospital standards. In this particular case, \$31,250 per  
 23 bed. Now, that's opposed to the freestanding hospitals that  
 24 you have approved in the last couple of years at 433,000  
 25 bed and \$16,000 bed. And the difference per patient day is

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1 about \$3 per patient day, as opposed to \$50-to-100 per  
 2 patient day, just for those capital costs.

3 In addition, you're sharing all of the facility  
 4 with other health facilities on that campus, the nursing  
 5 facility, physician clinic, geri-psych hospital, and so on.  
 6 Now, despite the very frugality of the building costs and  
 7 ability to leverage of their services, this indeed will be  
 8 a full-service, long-term acute care hospital, meeting  
 9 all licensure requirements for the State of Tennessee, the  
 10 Medicare and Medicaid participation as a hospital and joint  
 11 accreditation standards of the hospital. And in accordance  
 12 with Medicare rules, it will demonstrate over six months a  
 13 year that its Medicare patients had an average length of  
 14 stay of over or greater than 25 days, so that, one,  
 15 it can become certified, Medicare certified, as a long-term  
 16 acute care hospital subject to that particular methodology.

17 This new LTAC will have its own medical staff,  
 18 with an internist, who will serve as medical director, and  
 19 be onsite 20 hours a week. The medical director will be  
 20 putting together the medical staff, which will include all  
 21 of the specialties that you need for this group of  
 22 patients, a lot of ventilator-dependant patients,  
 23 respiratory care patients, medically-complexed patients.  
 24 So, we will have cardiology, neurology, pulmonology,  
 25 oncology, gastroenterology and family practice, infectious

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1 disease; that's another big one, for both attending and for  
 2 consulting physicians for the types of patients that we are  
 3 going to see in this particular LTAC.

4 Patient types will be similar to other long-term  
 5 acute care hospitals, and all of them will meet the expected  
 6 necessary level of care for hospital level of care, the  
 7 medical necessity requirements. The staffing, also, is  
 8 planned to be -- actually, exceed the not-for-profit to  
 9 staffing norms in the industry.

10 In 2004, the National Associates of Long-Term  
 11 Care Hospitals, which is a not-for-profit organization that  
 12 represents LTACs, did a study of how many of the average  
 13 direct nursing respiratory therapy and rehab therapy hours  
 14 per patient day were common in the industry. And what they  
 15 found was the direct clinical hours were 11 clinical hours  
 16 per patient day.

17 This new Memphis Long-Term Care Specialty  
 18 Hospital is budgeted for 12.6 direct nursing, respiratory  
 19 therapy and rehabilitation hours per patient day. All of  
 20 the other hospital services will be provided either onsite  
 21 or through contracts with other providers, as is typical of  
 22 most long-term acute care hospitals.

23 So, in summary, the Memphis Long-Term Care  
 24 Speciality Hospital will be a full-service LTAC. It will  
 25 provides a hospital level of care to both, Medicare patients

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1 and TennCare patients in Memphis and surrounding areas, with  
 2 costs that are lower than other LTACs because of the  
 3 extremely modest capital expenditures and the shared  
 4 services of the other health facilities on that campus. And  
 5 will be the only LTAC, long-term acute care hospital with a  
 6 formal agreement with TennCare to take its patients at about  
 7 40 percent less than most patients would be paying for in an  
 8 acute-care hospital, which is where they would be if they  
 9 weren't in an LTAC.

10 They are still projecting a small operating  
 11 margin, 5.6 percent. That's small for an LTAC. The major  
 12 national company that operates in Tennessee reported last  
 13 September that their operating margin is 22.9 percent. This  
 14 is much smaller, but it's still very doable with the mix of  
 15 60 percent TennCare patients and 40 percent Medicare  
 16 patients.

17 Just real quickly, I'd like to address on  
 18 component that was mentioned by the staff review and that's  
 19 the occupancy of the existing LTACs in Memphis. All three  
 20 of these are hospitals within hospitals. And I think you're  
 21 pretty familiar with the 25 Percent Rule, which will come  
 22 into full play in Fiscal Year 2008, when no more than 25  
 23 percent of your admissions, of your Medicare admissions, to  
 24 a hospital within a hospital, long-term acute care hospital,  
 25 can be from the host hospital without a financial penalty.

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1 So, we are seeing hospitals within hospitals find new ways  
 2 to be able to provide those service, such as building  
 3 freestanding hospitals. And there will be some of those  
 4 long-term acute care hospitals, hospital within hospitals  
 5 that we do expect to close. And their occupancies simply  
 6 will be going down. And the reason is that you're not going  
 7 to have a competing acute care hospital send a lot of their  
 8 patients to an LTAC in somebody's acute care hospital, so we  
 9 do expect occupancies to be declining in the hospitals  
 10 within hospitals overtime.

11 In closing, I have reviewed the AmeriCARE's  
 12 facility plan and operating model and find them to be  
 13 consistent with facilities in operation in existing LTACs  
 14 throughout the country. Its medical and its staffing plans  
 15 are appropriate for a long-term acute care hospital that  
 16 will admit patients to the hospital level of care for  
 17 extended periods of time.

18 AmeriCARE's intention to serve a substantial  
 19 number of African-Americans, it's primary care source is  
 20 either TennCare or Medicare, and I have found them to be  
 21 financially feasible. Thank you.

22 MR. BRENT: Mike Brent for the applicant. That  
 23 concludes what we wanted to say. We'll be glad to answer  
 24 any questions.

25 MR. CHAIRMAN: Okay. We'll have the other

1 support now, please.

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2 DR. STAMPS: Good afternoon. My name is  
3 Dr. Henry Stamps, and I'm in internal medicine in private  
4 practice in Collierville, Tennessee. And I've been in  
5 private practice in the Memphis area for approximately, ten  
6 years now. Also, currently, I'm here as the President Elect  
7 of the Bluff City Medical Society. The Bluff City Medical  
8 Society is the medical society that made up of predominately  
9 African-American physicians. There are nearly 200 of us in  
10 that medical society. And we comprise essentially all of  
11 the subspecialties in medicine.

12 One of the problems that has come to be voiced  
13 at some of our meetings is the lack of, I guess appropriate  
14 beds for patients particularly, TennCare enrollee patients  
15 in regard to LTAC facilities that are available, once they  
16 are ready to be discharged from the hospital. And as a  
17 medical society, one of things we do, one of our targets as  
18 physicians is to be an advocate for those patients. And  
19 particularly, the TennCare patients, since a lot of our, I  
20 guess patient base is made up of TennCare patients.

21 One, in particular, for instance, I currently  
22 have a patient who has been in a hospital now four months,  
23 four months after getting out of the intensive care unit.  
24 And currently, we do not have a place for him to be  
25 discharged. He is currently on a trac (inaudible) but we

1 don't have a place for him to go after he leaves the  
2 hospital because none of the facilities that are available  
3 would accept him.

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4 We did find a bed that did become available but  
5 when we checked into it, they would not accept him because  
6 of his TennCare insurance. And this is a recurrent thing  
7 that we've seen time and time, again, that I personally have  
8 been involved in with several of these cases time and time  
9 again. It has become very frustrating, not only for me, but  
10 other members of our medical society that we have patients  
11 that are enrolled in a state-supported, state-funded health  
12 care plan. And yet, when it comes time to be able to  
13 discharge them to an appropriate bed, we have no place to  
14 send them. And so, I would simply humbly ask that this  
15 Agency consider granting the certificate of need for this  
16 LTAC unit. Thank you.

17 MR. CHAIRMAN: Thank you. Is there any other  
18 support?

19 Okay. Now, we'll hear from the opposition,  
20 please.

21 MR. ELROD: Mr. Chairman, Members of the  
22 Agency, I'm Dan Elrod, here on behalf of Baptist Memorial  
23 Health Care Corporation, which includes Baptist Memorial  
24 Hospital and Baptist Memorial Restorative Care Hospital, a  
25 30-bed, long-term acute hospital in Memphis.

1 I'm not going to be presumptuous enough to

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2 believe that you've read Mr. Duckett's letter that was sent  
3 in opposition. But basically, I'll just paraphrase briefly  
4 that letter. The concerns from Baptist were, and I  
5 appreciate Dr. Griffin's explanation. But from the  
6 application itself, it was difficult to see that there  
7 really was a good operational plan for this facility and it  
8 had accounted for all of the costs that had to be  
9 incurred in order to really do long-term acute and that they  
10 were appropriately addressing all of the expenses involved  
11 and the requirements involved.

12 Having said that, we also communicated in that  
13 letter that if the applicant is agreeable to a couple of  
14 conditions on the application, then that would substantially  
15 address our concerns. And Mr. Brent and I have  
16 communicated. And it's my understanding that he is, that  
17 the applicant is okay with those conditions.

18 I guess the bottom line is if those conditions  
19 go on, our concerns are addressed. If not, then we would  
20 have concerns that the application really has not set forth  
21 a basis on which to really operate a long-term acute  
22 hospital. Mr. Arthur Maples is with me, and he is with  
23 Baptist, and also, is a quite astute in long-term care acute  
24 hospital care so if the Agency has any questions, we'll be  
25 happy to answer them.

1 MR. BAKER: Mr. Chairman, Graham Baker,

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2 representing Select Medical. And we share the concerns  
3 expressed by Baptist, and have a few additional concerns.

4 Under need, right now there are three  
5 facilities, three LTACs in Memphis operating 105 beds. Two  
6 of those are still a hospital within a hospital. The third  
7 one, ours, has been approved to relocate to a freestanding  
8 facility and that project is underway.

9 The utilization figures that we have indicate  
10 that on any given day there are 20-to-23 beds empty in  
11 existing LTAC facilities in Memphis right now, so we are  
12 concerned about the need. Ten years ago, Select turned in a  
13 30-bed CON in Memphis because we felt there was not that  
14 great of need for the service in that area.

15 The economic feasibility, the application  
16 states and I quote/require minor cosmetic changes to meet  
17 the State requirements as an acute-care hospital unit/end  
18 quote, talking about the existing nursing home where this is  
19 going to be located. There appears to be no allowance to  
20 medical utilities, such as oxygen, suction, etc., and a  
21 cosmetic upgrade. In fact, in capital costs, the  
22 construction costs allow only \$150,000 which is \$6.82 per  
23 gross square foot to take a residential room and turn it  
24 into a hospital room. Not just the capital costs, but we're  
25 concerned about the operating costs.

225  
1 Sixty percent of the patients are said to be  
2 TennCare. On those TennCare patients, the average revenue  
3 is going to be \$600 a day and the average cost will be \$770  
4 a day. Going to lose \$170 a day for every day of care they  
5 give to TennCare patients which represent 60 percent of  
6 their projected patient load. They are going to lose over a  
7 quarter of a million dollars in Year One, and over \$822,000  
8 in Year Two.  
9 Our costs in taking care of a patient is \$1,074  
10 per patient day. And we are told that Baptist and  
11 Methodist have comparable figures. There seems to be no  
12 allowance for the six-month period when the LTAC is not paid  
13 by Medicare, so we question the economic feasibility for  
14 that.  
15 A couple of other points. With their average  
16 cost being 770 and our average cost being a little over  
17 \$1,000, we question whether or not LTAC patients will be  
18 cared for. This is another concern that was addressed by  
19 Mr. Duckett's letter.  
20 Finally, under orderly development, the CMS  
21 rules state that when you have a hospital within a host  
22 facility, the two facilities have to have separate governing  
23 bodies, and that the LTAC's governing body cannot be under  
24 the control of the host facility or any third entity that  
25 controls both.

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1 This application, it appears, that AmericARE  
2 Corp., is 100 percent owner of both the LTAC and the nursing  
3 home. We feel that's probably a violation of the CMS rules.  
4 Further, and lastly, we didn't see an isolation  
5 room in the plan. So, when you're talking about having  
6 infectious disease and those types of things, you need to be  
7 able to isolate a patient and we didn't see that. Those are  
8 our concerns, and we thank you for your time. Thank you.  
9 MR. CHAIRMAN: Thank you. Okay. Now, we have  
10 time for rebuttal.  
11 MR. BRENT: Mike Brent for the applicant.  
12 There were a couple of points that were raised.  
13 We believe that because of the nature of this building and  
14 it was constructed as a hospital many years ago, that the  
15 amount of dollars that you see in there allows for what  
16 really are cosmetic changes, will be sufficient. We also  
17 believe that while we're still cutting a little bit of  
18 ground with TennCare and the MCOs that we are going to be  
19 able to generate sufficient revenues based on our contracts  
20 with them to make a possible go of this. We realize that  
21 there is a little ramp-up period with Medicare, but we think  
22 we can by managing our case load, and so forth, with  
23 Medicaid, TennCare and a slow start, an appropriate start  
24 here, we can address all of those. And we'll be glad to  
25 address those points and answer any questions that you may

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1 have more fully, if you so desire.  
2 Bottom line is we think there are half a million  
3 folks in this general area that can benefit from this and we  
4 would like the opportunity to serve those patients. There  
5 is a great need, we think. As Dr. Stamps noted, many of  
6 those patients are not being seen and are discharged to  
7 inappropriate settings because they are not able to go to an  
8 LTAC. Thank you.  
9 MR. CHAIRMAN: Thank you. Members, do you have  
10 questions? Dr. Caldwell,  
11 DR. CALDWELL: The figures he gave, you're going  
12 to spend \$700 a day and get \$600 a day or thereabouts; do  
13 you disagree with those?  
14 MR. BRENT: Mike Brent. I'm going to ask  
15 Dr. Griffin to address this.  
16 DR. GRIFFIN: Kathleen Griffin. Those are  
17 absolutely right. The difference -- it's kind of like any  
18 kind of facility that's a safety-net hospital. You use the  
19 good payers to offset the rest of the payors. The average  
20 Medicare payment per patient day was projected to be around  
21 \$1,500 a day. The average Medicaid or TennCare is \$600 a  
22 day. So, when you're able to keep your costs down with  
23 those two mixed, you end up with an average daily revenue of  
24 a little over 800 a day with your costs at about \$770 on the  
25 average. So, it's all averaged out.

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1 I also want to point out, and I think this is a  
2 very excellent point that Mr. Baker made relative to their  
3 costs per patient day. Their case mix index, Select has a  
4 very high case mix index in the Memphis hospital, 1.27, and  
5 remember one is the average, that's your \$38,000 discharge  
6 payment. So 1.27, is 1.27 on the average time set which  
7 means that they are taking some pretty sick people. The  
8 case mix index that is projected for the Memphis Long-Term  
9 Care Hospital is about 1.17, which is lower. So,  
10 essentially, your nursing care probably is going to be  
11 pretty much the same. But your costs for other services,  
12 your lab, your radiology, your supplies, I think is going to  
13 be somewhat lower.  
14 DR. CALDWELL: I don't suppose there is anyone  
15 here from TennCare. There has never been, as far as I  
16 remember. This thing about the contract with TennCare,  
17 since no other MCO that we can find has made a contract, and  
18 all we have is a letter saying they would consider a  
19 contract, do you have any information you -- I can't believe  
20 that an MCO is going to be give you-all a contract and  
21 approve a 30 days of stay. That's against everything they  
22 stand for.  
23 MR. BRENT: Mike Brent for the applicant. We  
24 had discussions which resulted in those letters that you've  
25 mentioned. And as you'll notice, in those letters, they

229  
1 cannot give us a contract until we have a license based upon  
2 those discussions. So, a lot of this is looking forward as  
3 to what we can and can't do with them. We think they will  
4 be willing to do that because we think we've justified for  
5 the MCOs in the meetings that Mr. Hampton and others have  
6 had with them that this is going to be a significant savings  
7 to them. When you look at it from a system-wide standpoint,  
8 if we end up with an average charge to them of about \$600 a  
9 day, whereas while those patients remain in the hospital, my  
10 understanding is it's over \$1,000 a day, on average, that  
11 TennCare pays for that.

12 And the other thing we can, we hope, is to stop  
13 the cycle to some extent. Dr. Stamps can address this  
14 better than I can, but from my discussions and  
15 understanding, a lot of these patients are discharged back  
16 home because they don't have a place to go. And they stay  
17 home a little bit and they're back in the ER, again, and  
18 that whole cycle is on a very expensive level of care.  
19 whereas, if they could go to an LTAC for 26 days, 30 days,  
20 35 days, whatever it takes, before they go home. They would  
21 be much more appropriate to stay and not get back into the  
22 system and start the cycle, again.

23 DR. CALDWELL: Well, I would love to see this  
24 problem solved because as Dr. Hampton stated, it's a huge  
25 problem. We're having hard time getting the MCOs to even

230  
1 pay for acute care patients. One thing, they don't get much  
2 money and they are running out of money.  
3 Now, getting a contract is different from  
4 actually approving a patient. If you've ever tried to get a  
5 patient approved to get in a hospital, it is not the same as  
6 the hospital having a contract. Now, you may have a  
7 contract but you have nothing to go on that they will  
8 actually approve enough patients to fill your hospital.  
9 And we don't have anyone to ask. It's a real serious  
10 problem, because if they really are planning on doing that,  
11 I would vote for this in a second. But if they're not, it's  
12 not going to a doable project. And that's what I don't  
13 know.

14 MR. BRENT: And that's what we're basically  
15 asking is to be a guinea pig for this. You may recall last  
16 month, I think in the Knoxville application, I believe the  
17 Specialty Select Hospital in Knoxville is starting to try to  
18 have those discussions with TennCare there, as well. And we  
19 think we can make this work and would like to have that  
20 opportunity so we can benefit the citizens of west  
21 Tennessee.

22 DR. CALDWELL: I understand.

23 MR. HAMPTON: Dr. Caldwell, Michael Hampton,  
24 with Memphis Long-term Care. You raised a very, very good  
25 question, again. The reason why the existing LTACs are not

231  
1 providing contracts to TennCare, I'm told directly is that  
2 they are not willing to pay, cannot afford to pay twelve or  
3 thirteen hundred per day. So, it's economics that drives it,  
4 I give you my word that if I cannot get a  
5 TennCare contract within a period of time, say one year  
6 after the certificate of need is granted, if you so move to  
7 do that, I will personally bring it back and deliver it back  
8 to this Body.

9 DR. CALDWELL: Thank you.

10 MR. CHAIRMAN: Commissioner Flowers.

11 COMMISSIONER FLOWERS: Mr. Brent, I have a  
12 question about a couple of things. First of all, included,  
13 I think beginning at page 197 of the package here, is a  
14 facility inspection report that includes a number of  
15 findings about the physical condition and sanitary condition  
16 of an existing facility. My question to you is, is the  
17 facility that is being discussed in this report the building  
18 I believe that's identified with number 4 on your picture  
19 here, which is the building where you're intending to put  
20 the long-term acute care facility; is that the same  
21 building?

22 MR. BRENT: Mike Brent for the applicant. I'm  
23 going to ask Mr. Hampton to address the map and which  
24 building is which. I believe this is going to be on the  
25 third floor of building number 4 that you've pointed to

232  
1 there.  
2 MR. HAMPTON: Mike Hampton, Memphis Long-Term  
3 Care. Building number 4 --  
4 MS. BOBBITT: You need to talk into the mic,  
5 please.  
6 COMMISSIONER FLOWERS: Is that the same facility  
7 that is cited in this inspection report; is that the same  
8 building?  
9 You have got two there. I think the building that's got the  
10 number 3 on it and the building that's got the number 4.  
11 This inspection report, which building does this inspection  
12 report concern?

13 MR. HAMPTON: That particular issue occurred in  
14 building number 3.

15 COMMISSIONER FLOWERS: Okay. My second  
16 question,  
17 Mr. Brent, is about these conditions that Baptist in this  
18 letter from Mr. Duckett, they set forth two conditions.  
19 One, regarding a limitation on no new beds being added to  
20 the facility regardless of what the statute allows. And  
21 then, two, patients being limited to persons who qualify for  
22 admission under CMS rules. Do I understand that the  
23 applicant is agreeing to those conditions?

24 MR. BRENT: Mike Brent. Yes, ma'am. We have  
25 talked with representatives of Baptist and Specialty Select

233  
1 and agreed to those conditions under both, the no additional  
2 beds without coming back for a CON under the ten-bed rule.  
3 And that the patients would be limited to those who meet the  
4 long-term care acute hospital patient definition under CMS,  
5 the more than 25 day stay, etc.

6 COMMISSIONER FLOWERS: I have a question for  
7 counsel about that issue.

8 MR. CHAIRMAN: Mr. Lammert.

9 MR. LAMMERT: Mr. Brent, you've mentioned that  
10 there are a total of 2.5 million people in the service area  
11 and that includes Tennessee and its population for 2005 -  
12 2006. And you expect that in 2010 to go up to about two  
13 million six. Roughly, a million of that 2.6 are in  
14 Arkansas, Mississippi and Missouri. Have you had any  
15 discussions with the Medicaid providers in those states  
16 regarding their interests in a contract to provide long-term  
17 care through the Medicaid dollars for those states?

18 MR. BRENT: It is my understanding that we have  
19 not set down at the table with those agencies yet. Our  
20 intention being to work out what we could in Tennessee  
21 first. There are several other states, as I understand,  
22 that do use their Medicaid programs for LTAC payments.  
23 Dr. Griffin could address that better than I can. But we  
24 are hopeful that using that type of data, when we get to  
25 that point, we can to them and make a deal somewhere as we

1 do with the MCOs here.

2 MR. LAMMERT: Okay.

3 MR. HAMPTON: If I could add, Mr. Chairman.

4 We currently in our nursing home accept  
5 patients from Mississippi and Arkansas. I'm from Nashville,  
6 and I -- Mike Hamilton -- I'm sorry -- Memphis Long-Term  
7 Care. I'm from Nashville. But as I have spent time in  
8 Memphis, I realize how close Mississippi and Arkansas are to  
9 Shelby County and that individuals who grow up in these  
10 rural communities have the propensity to move towards  
11 Memphis, make their careers. And when their families need  
12 support, those families typically come to Memphis for that  
13 support.

14 MR. LAMMERT: Okay. So, the 60 percent figure  
15 in your application is just based upon the 1.5 million  
16 Tennessee residents. It's not based upon any -- from  
17 Arkansas, Mississippi or Missouri; is that your -- since you  
18 haven't had the TennCare or with the Medicaid providers in  
19 those states, is that the correct assumption here?

20 MR. HAMPTON: No. The correct assumption is it  
21 includes those individuals in those states. But, again, let  
22 me re-enforce that currently individuals just last week  
23 resided in Holly Spring in Mississippi, Alive Hospital  
24 called us and asked us could take those two patients, those  
25 two residents. And we said we could after looking at the

235  
1 intake information. And then, our billing office did the  
2 necessary paperwork. And now, TennCare, the state of  
3 Tennessee pays for that, and it happens all the time.

4 MR. LAMMERT: Okay. So, those Medicaid dollars  
5 from that state roll through the TennCare program?

6 MR. HAMPTON: Yes, sir.

7 MR. LAMMERT: So, that's how you anticipate  
8 this is going to work as well with the long-term acute care  
9 facility?

10 MR. HAMPTON: Yes, sir. The support, I believe  
11 follows the individual.

12 MR. LAMMERT: Okay. Thank you. A question for  
13 Baptist regarding their hospital within a hospital. Do you  
14 anticipate future plans for that hospital with the  
15 25 percent rule coming into place, what is Baptist's plans  
16 in terms of how they are going to handle that? Are there  
17 plans for them to move that to another -- outside of the  
18 hospital's walls, or is that even in discussion at this  
19 point?

20 MR. ELROD: Mr. Lammert, this is Dan Elrod here  
21 on behalf of Baptist Memorial. The Baptist facility is  
22 actually grandfathered by that rule because it was in place  
23 at a date that qualifies it for grandfathering, so it's not  
24 subject to that rule.

25 MR. LAMMERT: Okay. Thank you.

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1 MR. CHAIRMAN: I've got a couple of questions  
2 quickly for the applicant. Referring back to Mr. Duckett's  
3 letter, new LTAC's are required under CMS rules to operate  
4 six months before applying for Medicare. Do you have  
5 sufficient reserves to make it for six months without  
6 Medicare reimbursements?

7 MR. BRENT: Mike Brent for the applicant. I  
8 believe the financial information in the packet indicates a  
9 couple of lines of credit that are available through  
10 AmeriCARE Corporation, and we believe those are sufficient  
11 to do that, along with cash reserves that the facility  
12 currently has.

13 MR. CHAIRMAN: Okay. And also, what is your  
14 plan for an isolation room? That subject was also mentioned.

15 MR. BRENT: Mr. Hampton, would you address that?

16 MR. HAMPTON: All of the rooms on the floor will  
17 be single occupancy rooms, which meets those requirements.

18 MR. CHAIRMAN: Okay. Is it required for an  
19 isolation room to have negative pressure?

20 MR. HAMPTON: No, sir.

21 MR. CHAIRMAN: All right.

22 MR. HAMPTON: You mentioned that. One of our  
23 buildings on campus, it is an old TB hospital and it does  
24 have an isolation room.

25 MR. CHAIRMAN: Okay. Thank you, sir. There was

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1 an issue regarding surety bonds on page 142 of the  
2 application; has that been satisfied?

3 MR. HAMPTON: Mr. Chairman, I think you're  
4 referencing our survey in our first year. The first year, I  
5 think we had four. Clearly, that's not a perfect survey.  
6 But it's a heck of a long way from 29 in the county the  
7 previous year. But we strive and work very hard to continue  
8 to stay in compliance with all State and Federal  
9 regulations.

10 MR. CHAIRMAN: But you do currently have  
11 adequate surety bonds?

12 MR. HAMPTON: Yes, sir.

13 MR. CHAIRMAN: Thank you very much.

14 MR. HAMPTON: Thank you.

15 MR. CHAIRMAN: Any other questions? Counsel.

16 MR. BROGDEN: We've kind of danced around this.  
17 I was given a document listing a couple of conditions by  
18 Mr. Brent. One, that services be limited to long-term care  
19 patients as defined by CMS regs. And two, that no beds can  
20 be added to the facility without a new certificate of need  
21 regardless of the ten bed rule set forth in 68-11-1607.  
22 And it was my understanding that if that  
23 limitation were put on that that would remove the  
24 opposition. Is that a correct understanding, or does the  
25 opposition exist even if this condition is added to

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1 the -- it sounded like the opposition was more indepth than  
2 just this particular condition. So I wanted to just clarify  
3 your posture, both Mr. Baker and Mr. Elrod.

4 MR. ELROD: This is Dan Elrod here behalf of  
5 Baptist, speaking for Baptist only. And I apparently didn't  
6 do a good job of communicating this. If the conditions go  
7 on, that substantially addresses our issues and we do not  
8 have any opposition. But it's kind of hard to say you have  
9 no opposition because, it's a chicken and egg problem, we  
10 don't know the conditions that goes on until the Agency  
11 votes. So, we have to state some opposition in order to,  
12 you know, have a seat at the table, so to speak. But if the  
13 conditions go on, our objections are addressed.

14 MR. BROGDEN: Okay. I wasn't sure that everyone  
15 was clear. There had been some discussion. Mr. Brent  
16 didn't make it clear, I don't think that he had looked at  
17 them and they were agreeable.

18 MR. CHAIRMAN: Okay. We have another  
19 opportunity for opposition so let's hear from them.

20 MR. BAKER: This is Graham Baker, representing  
21 Select Medical. And our position is close to that but a  
22 little bit different. I think my client's exact words were,  
23 if they are going to put the condition on it, then they are  
24 going to put the condition on it. We'll decide after that  
25 whether we want to pursue it, but go ahead and oppose it for

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1 the time being. So, I'm opposing for the time being.

2 MR. BROGDEN: So, you don't like it but you  
3 don't like it as bad with the condition?

4 MR. BAKER: Well, Counselor, we still have some  
5 problems with need and economical feasibility and orderly  
6 development. And by the Guidelines that we operate under  
7 say you have to have negative pressure in the isolation  
8 room. There are some things like that that we still think  
9 there are some problems with. And you've got 60 percent of  
10 the patients losing money and the other 40 percent for the  
11 first six months you aren't going to be paid anything.  
12 So, we still have some concerns about the project. But I  
13 don't know if my client is going to want to pursue this  
14 beyond this forum today.

15 MR. BROGDEN: I understand. That clarifies it.

16 MR. CHAIRMAN: Any other questions? Okay.  
17 Dr. Caldwell and Commissioner Flowers.

18 DR. CALDWELL: Can we also besides those two put  
19 on there what Mike Hampton said he would agree to, this  
20 certificate of need will be surrendered in one year if they  
21 don't have a TennCare contract; is that legal to put that on  
22 there, or enforceable I should say.

23 MR. HAMPTON: Whether or not it's legal --

24 DR. CALDWELL: Wait just a second. I want  
25 Counsel to answer this.

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1 MR. BROGDEN: We'd have to give them due process  
2 and a contested case hearing. I'm not real comfortable with  
3 that language. Because I think that would require some  
4 follow up. I would just discourage that language. I think  
5 from a legal perspective having a hook on the end of the  
6 CON, I'm just not real comfortable with that. We have  
7 talked about this issue in terms of applicants and we went  
8 indepth during the rulemaking process. And there was a  
9 strong desire by some Members to have a condition or make  
10 the applicant come back after a period of time. And  
11 ultimately, our rules, our decision in the making of rules  
12 was that we're not going to entertain that practice. So, I  
13 guess to the extent that we've had that discussion before,  
14 that type of agreement would be inconsistent.

15 MR. CHAIRMAN: Okay. We have your answer.  
16 Commissioner Flowers.

17 COMMISSIONER FLOWERS: My question for you,  
18 Counsel, is related to these conditions that the parties  
19 have discussed among themselves. I guess as far as the  
20 first condition with regard to the ten-bed rule, and I guess  
21 the parties can agree to do that. And as an Agency, I guess  
22 the statute that we operate under, we can consider that  
23 condition.

24 But the second condition, I got...I'm concerned  
25 about whether this Agency has the ability to put a condition



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1 on a certificate of need relating to admissions under CMS  
2 rules. Because it would seem to me that the facility that  
3 they are asking for, I think we're putting some private-  
4 party concerns and maybe getting a little outside of our  
5 scope of authority there.

6 MR. BROGDEN: I agree with you, as far as making  
7 things more difficult. We have looked at it from a  
8 licensure standpoint and have been told it could be checked  
9 by licensure. But it does add an additional thing that  
10 would have to be looked at continuously whenever there is a  
11 change. And I guess it would fall on licensure. Now, you  
12 recall discussion that I know we've had, this discussion  
13 following licensure to make sure --

14 MS. HILL: We had this discussion when either  
15 last month or the month before concerning this same  
16 condition. I believe it was the same. And I believe they  
17 indicated at that time --

18 MR. BROGDEN: You're right. It would fall on  
19 the Department of Health to make sure that only patients who  
20 met those requirements were being admitted and that would  
21 be, well --

22 COMMISSIONER FLOWERS: My point is that's a  
23 different question. Can they inspect for it is a different  
24 question than should they inspect for it. Is that, you  
25 know, that self limitation is not a criteria but is rather

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1 more of a business agreement between the applicant and the  
2 opposition. I'm uncomfortable with -- this Agency weighing  
3 in to start inspecting for those types of arrangements is a  
4 slippery slope and we may not be wearing our crop shoes here  
5 today.

6 MR. BROGDEN: It can be done. Whether it's good  
7 policy is a different question.

8 MR. CHAIRMAN: Mr. Lammert. Sorry. I thought  
9 you had a question. Are there any other questions?  
10 Three-minute summations.

11 MR. BRENT: Mike Brent for the applicant.

12 MR. ELROD: This is Dan Elrod on behalf of  
13 Baptist Memorial. Just quickly on this condition point.  
14 The Guidelines for Growth for the criteria for long-term  
15 acute care hospital beds says -- I'm just going to read  
16 this. (As Read): In order to ensure that the beds for the  
17 facility are used and appropriately certified, any  
18 certificate of need for a long-term hospital should be  
19 conditioned on the institution being certified by the health  
20 care financing institution, which is now CMS, as a long-term  
21 hospital and qualified as PPS under applicable Federal  
22 guidelines.

23 That's really all he's saying in that same  
24 condition. It's because that's how you get certified  
25 because you limit your patients to those who meet the

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1 commitment right here. That's all it's saying. We can say  
2 the same. Either one is fine but this is in the Guidelines  
3 for Growth.

4 COMMISSIONER FLOWERS: But being certified by  
5 CMS, and then, having that as an ongoing condition under  
6 this Agency's purview is, I don't see in those conditions of  
7 being too flexible.

8 MR. ELROD: What I'm saying is that in order to  
9 maintain your certification by CMS, you can seek only  
10 patients who, in fact, qualify as long-term patients by  
11 the CMS Guidelines. That's part of the certification.

12 COMMISSIONER FLOWERS: So, is the condition  
13 that's requested then, is that they obtain the CMS  
14 certification?

15 MR. ELROD: That would be another way of saying  
16 it. Either way.

17 COMMISSIONER FLOWERS: I want to make sure we're  
18 saying the same thing, because it doesn't sound like the  
19 same thing.

20 MR. CHAIRMAN: Mr. Baker.

21 MR. BAKER: Graham Baker for Select. All we're  
22 saying is we want to make sure these are LTAC patients.  
23 These are not super skilled patients coming in from the  
24 nursing homes or something like that. If it's an LTAC  
25 patient, go by the LTAC Guidelines. Where are the LTAC

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1 Guidelines? CMS has them. So, if you comply with CMS  
2 Guidelines, on your admissions and what you do in that  
3 hospital, then you're an LTAC. If you will agree to those  
4 Guidelines, and take those types of patients, that will  
5 alleviate a lot of our fears. And we think those -- just  
6 like Dan just read, we think the Guidelines are there. Our  
7 State Guidelines say to be an LTAC, you've got to comply  
8 with CMS Guidelines.

9 Okay. That's fine. We amend this with, Dan,  
10 bless his heart, had the audacity to oppose our project  
11 originally, but he came up with this condition. If you'll  
12 agree to be an LTAC admissions, we'll withdraw our  
13 opposition. We said, Fine, we'll agree to do what we're  
14 supposed to do anyway. If we're going to be an LTAC, we've  
15 got to take LTAC patients.

16 COMMISSIONER FLOWERS: I'm trying to figure out  
17 why we need a special condition on this CON.

18 MR. BAKER: I guess we're just trying to drive  
19 home the point.

20 MR. ELROD: The Guidelines say the CON shall be  
21 conditioned. It's contemplated to put that condition.

22 MR. BROGDEN: Let me ask Ms. Hill since she has  
23 licensure background. They've got to get certification  
24 through the Department of Health. Does the Department of  
25 Health then check to make sure that patients that they are

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1 seeing are the appropriate patient to maintain that  
2 certification?  
3 MS. HILL: I don't think I can answer that. I'm  
4 sorry.

5 MR. ATCHLEY: Let me just offer this  
6 observation. Every health care facility, whether you're a  
7 hospital or nursing home, you admit a patient based on a  
8 certain level, be it a skilled nursing home patient, be it  
9 a Level I nursing home patient, and you're certifying to the  
10 State when you file that report that that's what that  
11 patient is. It's simply the case that when they admit a  
12 patient to this LTAC hospital and they say it's LTAC, and  
13 they are lying, if they are ever caught, it's Medicare and  
14 Medicaid fraud.

15 Every facility, no matter what patient you admit  
16 operates under CMS Guidelines. And this is what this is  
17 saying -- they're saying, when they admit a patient that it  
18 will be an LTAC patient. I don't think we need to put that  
19 condition on there. That condition, by granting the CON is  
20 there automatically, as Mr. Elrod said. If they go by CMS  
21 Guidelines, they are only going to admit LTAC patients.  
22 MR. ELROD: Here's the gap. The State licensure  
23 law doesn't for long-term acute care hospitals doesn't  
24 include that. So you don't -- you couldn't theoretically  
25 have a long-term acute license under the State licensure

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1 law, not go get Medicare certification, and then, see a  
2 broad variety of patients that you didn't really approve the  
3 facility to see. There is a disconnect between the  
4 licensure law itself and the Medicare of who's going to pay  
5 for that. Good question. You would think most of them  
6 would go get their Medicare certification. I was saying,  
7 just to nail it down, I think that's why the Guidelines for  
8 Growth actually contemplate that the CON would be  
9 conditioned so that gap is closed.

10 As Graham says, they are going to do what they  
11 are supposed to do. But if they get Medicare certification,  
12 you're right, Mr. Atchley, there is not an issue but just to  
13 make sure that the Guidelines say, it will be conditioned  
14 on them getting that.

15 MR. CHAIRMAN: We can continue this in the  
16 discussion section. Summation by the applicant.

17 MR. BRENT: Mike Brent for the applicant.

18 As we mentioned, we feel like there is a  
19 population that could vastly benefit from these services.  
20 Much of that population need special wound care, diabetic  
21 care, much of that as was mentioned. And by the way, the  
22 population of west Tennessee we feel we would be well  
23 qualified to serve.

24 As to the TennCare dollars and cents, there is a  
25 little bit of TennCare that's been paid to Baptist on an

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1 out-of-network basis as shown on their latest Joint Annual  
2 Report for their facility. And, of course, Kindred, as was  
3 alluded to in Nashville at the Bordeaux facility, they have  
4 a substantial amount of TennCare dollars they receive,  
5 again, on an out-of-network basis. So, that summarizes  
6 basically what we are asking for. There is a need as shown  
7 by the numbers on here. We have the reserves and lines of  
8 credit to make this an economically-feasible project. And  
9 because of these patients who are in this revolving cycle of  
10 leaving the hospital, going home and coming back to the ER,  
11 we could serve those and that would certainly contribute to  
12 the orderly development of health care. Thank you.

13 MR. CHAIRMAN: Thank you very much. Now, it's  
14 discussion time between the Members and Counsel.  
15 Dr. Caldwell.

16 DR. CALDWELL: Well, I was prepared to make a  
17 motion but after I can't put limitations on it, I'm not  
18 prepared. Because the whole deal depends on a TennCare  
19 contract. If I can't put that limitation on there, that  
20 limitation is different when we're saying that you've got to  
21 show evidence that you're trying for TennCare. This one is  
22 showing evidence that 60 percent of their money is coming  
23 from TennCare and it will fail with that. And I can't vote  
24 for this without some assurance that TennCare will actually  
25 give them money, which I don't believe. And we don't know

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1 how -- we can't get that information from TennCare. But  
2 saying that TennCare covers a few out of contract is a whole  
3 different ball game than month in and month out and giving  
4 you 60 percent of your money. And that's just -- there is  
5 no evidence that that will happen and there is no evidence  
6 that this hospital can succeed without that. Because  
7 they're basing their entire application on -- we can't put  
8 that on there.

9 COMMISSIONER FLOWERS: But Dr. Caldwell, you're  
10 kind of asking them to prove a negative there. Because I  
11 mean, they can't -- they've got the chicken and the egg  
12 thing here. They can't, until they get the license, they  
13 can't get a contract. Until they get a contract, we don't  
14 want them to have a license. So, I think they are kind of  
15 caught in that situation. So, I mean, that's my comment on  
16 that.

17 But I still have a concern about this condition.  
18 Because I think that is putting the licensure inspection in  
19 a whole different mode of looking at whether these folks are  
20 complying with CMS requirements. If they are not, then they  
21 can be turned in to CMS. So, I'm uncomfortable with that  
22 second condition, as to whether that's inappropriate, from a  
23 policy standpoint, whether that's appropriate for this  
24 Agency to put the licensure inspection body in the role of  
25 CMS enforcement. That's my comment.

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1 MR. ATCHLEY: I would agree with that. It would  
2 be just like this ten skilled swing beds we approved today.  
3 We put a condition on that that they be skilled beds.  
4 That's what they are. That's what we approved. It's up to  
5 licensure to enforce that, not us to put a condition on a  
6 CON that they be skilled beds. I may be looking at that too  
7 simplified. But if you approve an LTAC hospital, that's the  
8 kind of patients they are supposed to take.  
9 MR. CHAIRMAN: I agree with that logic. Any  
10 other comments? Ms. Weaver.  
11 MS. WEAVER: I'll just add to the mix a couple  
12 of observations. Number one, I have to ask for any of the  
13 other LTACs that we have approved, I don't think we  
14 required that they be conditioned.  
15 MR. ELROD: The last two.  
16 MS. WEAVER: Okay. What about those prior to  
17 that? So we have not been consistent in how we have done  
18 that. So that's part of the problem, whether it is or  
19 isn't. But I have to get back in the mix with the other two  
20 Agency Members who were saying that since we're not the  
21 agency that does the inspection to make sure that the  
22 appropriate patient is in the appropriate bed, that is an  
23 awful lot to put on licensure. I would have to concur.  
24 MR. CHAIRMAN: Dr. Caldwell.  
25 MS. WEAVER: There's one other comment. As it

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1 relates to the TennCare issue, I think this particular  
2 group, they did go back, they listened to what we said the  
3 last time and they got all they could get from the MCO. And  
4 that was a letter of consideration assuming they get through  
5 the next step, which would be either get the CON, and then,  
6 they will at least come back and sit down and talk with you.  
7 And that is more than we have required of any other LTAC.  
8 MR. CHAIRMAN: Dr. Caldwell.  
9 DR. CALDWELL: Again, the only LTAC I've voted  
10 on did not claim they wanted 60 percent from TennCare. This  
11 is a different thing. They're getting 60 percent of their  
12 money from TennCare. We have not voted on that before. And  
13 it would be easy for Mr. Hampton to come back in a year and  
14 show us his license. Not that (inaudible), just show us his  
15 contract. That's all I was asking. So that's apparently  
16 not going to work. It's difficult to vote for this without  
17 knowing that TennCare coverage. And I'm willing to vote for  
18 it and give them a chance, but in a year, I want him to come  
19 back with a contract in hand, saying, I have a contract.  
20 MR. BROGDEN: There is one way to go about it, I  
21 guess. Again, and I don't know if it's a policy approach  
22 that you want. But you could make a motion that it's issued  
23 based on the presumption that a TennCare contract will be  
24 procured within one year and under grounds for revocation of  
25 a project we'd have something to go on to go after the

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1 certificate of need. I don't know if that's a good policy.  
2 That's the only way I can tell you that I would have any  
3 comfort with.  
4 MR. LAMMERT: Counsel, to address Dr. Caldwell's  
5 issue, would it be appropriate to put a limitation on the  
6 CON that states that this provider will provide a majority  
7 of services to TennCare recipients?  
8 MR. CHAIRMAN: I'm having trouble with --  
9 MR. BROGDEN: Yeah, I think that's --  
10 COMMISSIONER FLOWERS: Can I -- I think what  
11 Dr. Caldwell, he's expressing a very valid concern here in  
12 that they've got a 60 percent number tagged to TennCare, and  
13 that is sticking out there that if it doesn't come through,  
14 then there is a very serious economic feasibility question  
15 about this. Now, is there a way that we can condition a  
16 showing a year from now that they have met the economic  
17 feasibility projections that were included in this  
18 application? That might be TennCare. It might be an  
19 increase in Medicare. It may be more Medicare. I'm all for  
20 having these applicants that come in here, especially  
21 startups that say, oh, yeah, we're going to contract with  
22 TennCare. It's going to be 40 percent of our revenue, come  
23 back show us later on but we can't go there. I mean, we  
24 just don't go there.  
25 But in this situation, the economic feasibility,

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1 if I understand you, Dr. Caldwell. Help me if I'm  
2 misunderstanding. The economic feasibility of this project  
3 is panning on them getting a successful TennCare  
4 arrangement. And so, I mean, they make projections on  
5 revenue here to support the economic feasibility, even if it  
6 wasn't conditioned on the specificity of TennCare. Is there  
7 a reason that we cannot have a condition for showing that  
8 they met the revenue projections that they included?  
9 MR. BROGDEN: I think it would need to be  
10 something very specific and readily definable. Because if  
11 we get a year from now, and we're halfway there or most of  
12 the way there, and I have to go to an administrative law  
13 judge and we've issued this based on X. I don't know. I  
14 think it's a policy decision whether you want to issue  
15 certificates of need based on contingencies.  
16 MR. CHAIRMAN: I don't think we can make the  
17 policy decision today given that we've got four more  
18 applications. We're going to have to do something on this  
19 one. If we want to schedule time for policy discussion,  
20 we'll have to do that next month. Is there any further  
21 discussion? If not, a motion is in order. Mr. Atchley.  
22 I'm sorry. Ms. Weaver, go ahead.  
23 MS. WEAVER: Go ahead.  
24 MR. ATCHLEY: I want to make this motion and  
25 Counsel might tell me I can't. I want to make a motion to

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1 approve CN0603-019 based on the need. I think there is a  
2 segment of the population that it's been demonstrated it's  
3 not being served. They are in that vicious cycle of going  
4 home and back to the hospitals. On the orderly growth of  
5 health, I think by taking care of this segment of the  
6 population, that it does contribute to that.  
7 I would like to put on -- I'm going to address  
8 economic feasibility in a minute. But also, put the  
9 condition on there that the addition of beds cannot be done  
10 regardless of the ten-bed rule unless they do come back  
11 before this body.  
12 Economic feasibility, I'm also going to add  
13 since this CON is based on 60 percent TennCare  
14 participation, that within one year they show evidence of a  
15 contract with TennCare and that would fulfill the economic  
16 feasibility of the CON. But if that contract is not  
17 obtained one year, then the CON would be recalled.  
18 MR. CHAIRMAN: Is that fine with the applicant?  
19 MR. HAMPTON: Yes, sir.  
20 MR. BROGDEN: Your language, you're  
21 automatically taking away --  
22 MR. CHAIRMAN: Would it be acceptable to the  
23 maker of the motion to say, subject to a revocation hearing.  
24 MR. ATCHLEY: Subject to a revocation hearing.  
25 MR. CHAIRMAN: Okay.

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1 MR. BROGDEN: I would also add since worse case  
2 is you grant it and it gets appealed anyway. You go ahead  
3 and add the additional condition that services would be  
4 limited to long-term care hospital patients, as defined by  
5 current or subsequent CMS regulations. I know you said  
6 that's a given, and that would make --  
7 MR. ATCHLEY: I see both sides shaking their  
8 heads, so I will agree to that, to include that in the  
9 motion. I agree.  
10 MR. BROGDEN: I do think maybe when we have  
11 some more time, we need to think about more -- I don't know  
12 how this motion is going to warrant full discussion about  
13 making long-term attachments to --  
14 MR. CHAIRMAN: Set aside time on next month's  
15 agenda for that discussion. Is there a second?  
16 DR. CALDWELL: Second.  
17 MR. CHAIRMAN: Dr. Caldwell. That is a proper  
18 motion. Please read the roll.  
19 MS. BOBBITT: Flowers.  
20 COMMISSIONER FLOWERS: Yes.  
21 MS. BOBBITT: Caldwell.  
22 DR. CALDWELL: Yes.  
23 MS. BOBBITT: Atchley.  
24 MR. ATCHLEY: Yes.  
25 MS. BOBBITT: Lammert.

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1 MR. LAMMERT: Yes.  
2 MS. BOBBITT: Weaver.  
3 MS. WEAVER: Yes.  
4 MS. BOBBITT: Jones.  
5 MR. JONES: Yes.  
6 MS. BOBBITT: Koella.  
7 MR. KOELLA: No.  
8 MS. BOBBITT: Six, yes; one, no.  
9 MR. CHAIRMAN: The certificate of need is  
10 granted. Thank you. We will take a five-minute break.  
11 \* \* \* \* \*  
12 MR. CHAIRMAN: We are back order. If Mr. Farber  
13 will read the application, please.  
14 E. CROWN SURGERY CENTER - CN0604-024  
15 MR. FARBER: Crown Surgery Center, Tullahoma,  
16 Coffee County, CN0604-024.  
17 This project is for the establishment of an  
18 ambulatory surgical treatment center with two (2) operating  
19 rooms and one (1) procedure room.  
20 Estimated project cost is \$442,850.  
21 Members, please note there is opposition by  
22 Ambulatory Surgical Associates.  
23 Here on behalf of the applicant are Shea Love,  
24 Donna Myers and Michael Love.  
25 MR. CHAIRMAN: We're going go slightly out of

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1 order because I believe both of the opposition is satisfied  
2 with a restriction, and let's see if that's true.  
3 MR. BAKER: This is Graham Baker. I represent  
4 Ambulatory Surgical Associates. And we are withdrawing our  
5 opposition based on the assurance of the applicant that  
6 this ASTC will be limited to a single-specialty ASTC with  
7 dental care only. And I believe -- can I speak for Harton?  
8 I believe Dan is here.  
9 Well, Harton was also here to file opposition  
10 but they are not going to simply based on the same  
11 situation. So, if this winds up being a single-specialty  
12 dental only, there's no opposition. We wanted to get that  
13 out of the way so you wouldn't think --  
14 MR. CHAIRMAN: Okay. Is there any other  
15 opposition in the audience that hasn't been addressed?  
16 MR. BROGDEN: Mr. Chairman, let me just clear  
17 this up. The application mentioned limited to dental and  
18 oral/maxillofacial surgery; is that the specific limitation?  
19 MR. BAKER: Graham Baker. That will be fine.  
20 The original notice did not have any of those limitations.  
21 The original notice just said ASTC. That's why we jumped  
22 on it and said we were going oppose it. We found out later  
23 it was dental. So, if it's limited to that, which you just  
24 read, that's fine. We have no opposition.  
25 MR. BROGDEN: Okay.

STATE OF TENNESSEE  
Health Services and Development Agency



Certificate of Need No. **CN0603-019AE** is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: AmeriCare Health Properties, LLC  
3391 Old Getwell Road  
Memphis, TN 38118

For: Memphis Long Term Care Specialty Hospital

This Certificate is issued for: The establishment of a long term acute care hospital containing twenty-four (24) beds. The hospital will be located on the third floor of Americare Health Center of Memphis, an existing licensed 237 bed nursing home. **Condition: Notwithstanding T.C.A. § 68-11-1607(g) additional beds cannot be added without a new Certificate of Need (CON). TennCare contract must be proven in one (1) year, if not, the CON will be subject to a Revocation Hearing. Services are to be limited to long term care patients as defined by current or subsequent CMS regulations.**

\* This Certificate is a replacement of the originally issued Certificate of Need pursuant to Agency Rule 0720-3-06(9). Modification and/or addendums to issued certificates. In the event a certificate holder wishes to make substantive changes relating to the scope, cost, or duration of the project, written request must be made to, and formally approved by the Agency. If approved, such changes may be reflected in either the issuance of a modified Certificate of Need, or the issuance of an addendum to the original Certificate. This project was approved on September 26, 2007 with an expiration date of September 1, 2009; extension of expiration date to January 1, 2010 was approved on April 23, 2008; extension of expiration date to January 1, 2011 was approved on November 18, 2009.

On the premises located at: 3391 Old Getwell Road  
Memphis (Shelby), TN 38118

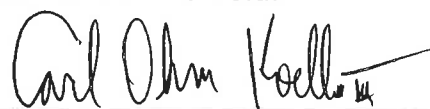
For an estimated project cost of: \$750,000.00

The Expiration Date for this Certificate of Need is


January 1, 2011

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: September 26, 2007

  
Chairman

Date Issued: October 24, 2007

  
Executive Director



2009 AUG 10 PM 3:04

## LETTER OF INTENT TENNESSEE HEALTH SERVICES AND DEVELOPMENT AGENCY

The Publication of Intent is to be published in the Commercial-Appeal, which is a newspaper of general circulation in Shelby County, Tennessee, on or before August 10, 2009, for one day.

This is to provide official notice to the Health Services and Development Agency and all interested parties, in accordance with T.C.A. §68-11-1601 *et. seq.*, and the Rules of the Health Services and Development Agency, that Memphis Long Term Care Specialty Hospital, a long term acute care hospital owned by Memphis Long Term Care Specialty Hospital, LLC, with an ownership type of Tennessee limited liability company, and to be managed by Memphis Long Term Care Specialty Hospital, LLC, intends to file an application for a Certificate of Need for the relocation and replacement of a health care facility, as follows: Due to the condemnation by the BNSF Railway Company in circuit court of a portion of the campus where the applicant and its affiliates currently operate their facilities, the applicant requests permission to relocate its 24 bed long term acute care hospital to a new facility to be constructed on an approximately 3.08 acre parcel of land (as yet not subdivided) of a larger approximately 10 acre parcel of land at the northwest corner of Kirby Parkway and Kirby Gate Boulevard, Memphis, Tennessee. The real property where the current facility is located is owned by AmeriCare Health Properties, LLC, but leased to Memphis Long Term Care Specialty Hospital, LLC. The new facility will be owned and operated by Memphis Long Term Care Specialty Hospital, LLC, and will contain 24 long term acute care hospital beds in approximately 32,000 square feet of space. The anticipated project cost will be \$7,600,000.

The anticipated date of filing the application is August 14, 2009.

The contact person for this project is Michael Hampton, President, who may be reached at Hospital Realty Group, Inc., 3391 Old Getwell Road, Memphis, TN 38118, and by phone at 901/369-9100.

  
Michael Hampton.

8/5/09  
Date:

E. GRAHAM BAKER, JR.

ATTORNEY AT LAW

7000 EXECUTIVE CENTER DRIVE • SUITE 207

BRENTWOOD, TN 37027

TEL 615-370-3380

FAX 615-370-3393

graham@grahambaker.net

November 10, 2009

Melanie Hill, Executive Director  
Health Services and Development Agency  
500 Deaderick Street, Suite 850  
Nashville, Tennessee 37243

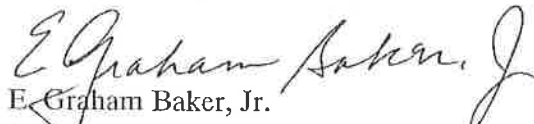
Re: AmeriCare Long Term Specialty Hospital, LLC,  
d/b/a AmeriCare Health and Rehabilitation Center, Memphis  
CN0908-046  
Opposition Letter

Dear Mrs. Hill:

I represent Select Medical Corporation, owner of Select Specialty Hospital – Memphis, a 39 bed Long Term Acute Care Hospital located in the service area of the above-referenced project. On behalf of my client, I am filing this letter of opposition to the referenced CON application for the relocation and replacement of its 24 bed long term acute care hospital. The original application (CN0603-019A) was approved with a contingency that the applicant would not be able to invoke or otherwise exercise the “10 bed/10%” provision of T.C.A. § 68-11-1607(g). The Applicant also agreed at that time to certain language defining the type of patient it would serve. As these contingencies seem to be missing from the current application, my client respectfully opposes the project.

I will attend the November meeting of the Health Services and Development Agency to more fully discuss the reasons for our opposition.

Sincerely,

  
E. Graham Baker, Jr.  
/nc

c: Pat Rice, Select Medical Corporation  
Mike Brent, Esq.

Dan H. Elrod, Esq., representing the applicant, addressed the Agency. Tony G. Benton, Assistant Vice-President, Strategic Planning spoke on behalf of the project. Present in support of the project were: Dwayne Mueller, Director of Nursing, Woodridge Psychiatric Hospital; and Marlene B. Bailey, Manager Respond, Mountain States Health Alliance.

Mr. Lammert moved for approval of the project based on: 1) Need – The project will meet the need of the population; 2) Economic Feasibility – The project's economic feasibility is met with cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care by providing additional psychiatric services in the Washington County area. Dr. Handorf seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Burns, Bishop, Lammert, Handorf, Weaver, Gaither, Koella  
NAY: None

*Dr. Handorf recused on the following two Certificate of Need Applications and the General Counsel's Report item as follows:*

The following projects were presented simultaneously: AmeriCare Long Term Specialty Hospital, LLC d/b/a Americare Health and Rehabilitation Center - Project No. CN0908-045; Memphis Long Term Care Specialty Hospital - Project No. CN0908-046; and taken out of order from the General Counsel's Report - Memphis Long Term Care Specialty Hospital - Project No. CN0603-019A

AmeriCare Long Term Specialty Hospital, LLC d/b/a Americare Health and Rehabilitation Center - (Memphis, Shelby County) - Project No. CN0908-045


The partial relocation and replacement of a health care facility, as follows, in accordance with T.C.A. § 68-11-1629: Due to condemnation by the BNSF Railway Company, in circuit court, a portion of the campus where the applicant and its affiliates currently operate their facilities, the applicant requests permission to relocate ninety (90) of the two hundred thirty-seven (237) nursing home beds, which are all currently located at 3391 Old Getwell Road, Memphis (Shelby County), TN, to a new facility to be constructed on an approximately 3.15 acre parcel of land (as yet not subdivided) of a larger approximately 10 acre parcel of land at the northwest corner of Kirby Parkway and Kirby Gate Boulevard, Memphis (Shelby County), TN, in which the site is within the service area of the existing two hundred thirty-seven (237) bed facility, owned by AmeriCare Health Properties, LLC, but leased, licensed and operated by AmeriCare Long Term Specialty Hospital, LLC. The new facility will be owned, operated, and licensed in the name of a separate, but affiliated entity known as Oaktree Health and Rehabilitation Center, LLC and will contain ninety (90) nursing home beds in approximately 49,500 square feet of space. Project Cost \$8,639,395.00. \* These beds will not be subject to the 2009-2010 Nursing Home Bed Pool.

Michael D. Brent, Esq., representing the applicant, addressed the Agency. Present in support were: Michael Hampton, President, AmeriCare; and Monica Edwards, Esq., AmeriCare.

Matthew Scanlan, Esq., representing BNSF Railway Company was present.

Ms. Weaver moved for approval of the project based on: 1) Need – This application meets the need as it is an existing facility that serves TennCare patients and because of the circumstances with the railroad company coming through, this relocation is necessary; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. Ms. Burns seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Burns, Bishop, Lammert, Weaver, Gaither, Koella  
NAY: None

 Memphis Long Term Care Specialty Hospital - (Memphis, Shelby County) - Project No. CN0908-046

The relocation and replacement of a health care facility, as follows, in accordance with T.C.A. § 68-11-1629: Due to condemnation by the BNSF Railway Company, in circuit court, a portion of the campus where the applicant and its affiliates currently operate their facilities, the applicant requests permission to relocate its twenty-four (24) bed long term acute care hospital to a new facility to be constructed on an approximately 3.08 acre parcel of land (as yet not subdivided) of a larger approximately 10 acre parcel of land at the northwest

HEALTH SERVICES AND DEVELOPMENT AGENCY

NOVEMBER 18, 2009 MEETING

- PAGE 6 -



corner of Kirby Parkway and Kirby Gate Boulevard, Memphis (Shelby County), TN. The real property where the current facility is located is owned by AmeriCare Health Properties, LLC, but leased by Memphis Long Term Care Specialty Hospital, LLC. The new facility will be owned, operated by Memphis Long Term Care Specialty Hospital, LLC and will contain twenty-four (24) long term acute care hospital beds in approximately 30,000 square feet of space. Project Cost \$7,617,100.00.

Michael D. Brent, Esq., representing the applicant, addressed the Agency. Present in support were: Michael Hampton, President, AmeriCare; and Monica Edwards, Esq., AmeriCare.

Matthew Scanlan, Esq., representing BNSF Railway Company; and Graham Baker, Esq. representing Select Specialty Hospital were present.

Ms. Weaver moved for approval of the project based on: 1) Need – The need has been established for this existing facility which is currently doing business; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. **Condition:** (1) Notwithstanding T.C.A. § 68-11-1607(g) additional beds cannot be added without a new Certificate of Need; (2) Services are to be limited to long term care patients as defined by current or subsequent CMS regulations; and (3) License for the current facility will be surrendered once this facility has become licensed. Mr. Lammert seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Burns, Bishop, Lammert, Weaver, Gaither, Koella

NAY: None

*Taken out of order to be presented with the above two (2) CON projects.*

**Memphis Long Term Care Specialty Hospital - (Memphis, Shelby County) - Project No. CN0603-019A**

Request for a six (6) month extension of the expiration date of the Certificate of Need from January 1, 2010 to July 1, 2010. This project was approved on July 26, 2006 for the establishment of a twenty-four (24) bed long term acute care hospital with a project cost of \$750,000.00. Request for corporate restructuring was granted on March 28, 2007. On March 28, 2008 a four (4) month extension of the expiration date was approved from September 1, 2009 to January 1, 2010.

Michael D. Brent, Esq., representing the applicant, addressed the Agency. Present in support were: Michael Hampton, President, AmeriCare; and Monica Edwards, Esq., AmeriCare.

Matthew Scanlan, Esq., representing BNSF Railway Company was present.

Mr. Lammert moved for approval of the request for a twelve (12) month extension of the expiration date of the Certificate of Need from January 1, 2010 to January 1, 2011. Ms. Weaver seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Burns, Bishop, Lammert, Weaver, Gaither, Koella

NAY: None

**GENERAL COUNSEL'S REPORT**

*Jim Christoffersen summarized the following requests for modifications:*

**Jefferson County Nursing Home - (Dandridge, Jefferson County) - Project No. CN0707-054A**

Request for a fifteen (15) month extension of the expiration date of the Certificate of Need from December 1, 2009 to March 1, 2011. This project was approved on October 24, 2007 for the addition of twenty-five (25) skilled beds dually certified for Medicare and Medicaid and the new construction of three (3) 5,596 square foot Green Houses and for renovations of existing spaces. The licensed bed complement increased from 135 to 160. The project cost was \$7,638,208.00.

Roger L. Mynatt, Administrator, was present on behalf of the project.

STATE OF TENNESSEE  
Health Services and Development Agency



Certificate of Need No. CN0908-046AE is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: Shelby County Health Care Corporation d/b/a the Regional Medical Center at Memphis ("The MED")  
877 Jefferson Avenue  
Memphis, TN 38103

For: Memphis Long Term Care Specialty Hospital

This Certificate is issued for: The relocation and replacement of a health care facility, originally approved under CN0603-019A in 2006. The relocation of its twenty-four (24) bed long term acute care hospital to a new facility to be constructed on an approximately 3.08 acre parcel of land at the northwest corner of Kirby Parkway and Kirby Gate Boulevard, Memphis (Shelby County), TN. The new facility will be owned, operated by Shelby County Health Care Corporation d/b/a the Regional Medical Center at Memphis ("The MED"), who proposes to acquire all of the issued and outstanding equity in Memphis Long Term Care Specialty Hospital, LLC and will contain approximately 30,000 square feet of space.

\* This Certificate is a replacement of the originally issued Certificate of Need pursuant to Agency Rule 0720-3-06(9). Modification and/or addendums to issued certificates. In the event a certificate holder wishes to make substantive changes relating to the scope, cost, or duration of the project, written request must be made to, and formally approved by the Agency. If approved, such changes may be reflected in either the issuance of a modified Certificate of Need, or the issuance of an addendum to the original Certificate... This project was approved at the November 18, 2009 Agency meeting with an expiration date of January 1, 2013. On September 26, 2012 the Agency granted a two (2) month extension of the expiration date from January 1, 2013 to March 1, 2013; and a change of control was granted for Shelby County Health Care Corporation d/b/a the Regional Medical Center at Memphis ("The MED") to acquire all of the issued and outstanding equity in Memphis Long Term Care Specialty Hospital.

On the premises located at: Corner of Kirby Pkwy. and Kirby Gate Blvd.  
Memphis (Shelby County), TN 38118

For an estimated project cost of: \$7,617,100.00

The Expiration Date for this Certificate of Need is

March 1, 2013

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: September 26, 2012

D. L. Johnson  
Chairman

Date Issued: October 24, 2012

Melanie M. Hill  
Executive Director

STATE OF TENNESSEE  
Health Services and Development Agency



Certificate of Need No. **CN1210-052A** is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: Memphis Long Term Care Specialty Hospital, LLC  
877 Jefferson Avenue  
Memphis, TN 38103

For: Memphis Long Term Care Specialty Hospital

This Certificate is issued for: The relocation of a twenty-four (24) bed long term acute care hospital (approved but unimplemented CN0908-046AE) from its approved site at the intersection of Kirby Parkway and Kirby Gate Boulevard to the main campus of The MED. Estimated Project Cost is \$8,208,743.21.

On the premises located at: 877 Jefferson Avenue  
Memphis (Shelby County), TN 38103

For an estimated project cost of: \$8,208,743.00

The Expiration Date for this Certificate of Need is

February 1, 2016

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: December 12, 2012

  
Chairman

Date Issued: January 23, 2013

  
Executive Director

